

## **Table 2**

### **EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR)<sup>1</sup>**

#### **DIVISION 21**

#### **GENERAL EMISSION STANDARDS FOR PARTICULATE MATTER**

#### **INDUSTRIAL CONTINGENCY REQUIREMENTS FOR PM-10 NONATTAINMENT AREAS**

##### **340-021-200 Purpose**

OAR 340-021-200 through 340-021-245 establish contingency control requirements for existing industrial sources in the following PM<sub>10</sub> nonattainment areas: Medford-Ashland; Grants Pass; Klamath Falls; La Grande. ~~[as required under section 172(c) of the Clean Air Act.]~~ These requirements become effective in the PM<sub>10</sub> nonattainment area if the area fails to attain the national ambient air quality standard for PM<sub>10</sub> by the applicable attainment date in the Clean Air Act.

*State effective: 5/1/1995; EPA approval: 9/21/1999, 64 FR 51051; EPA effective: 11/21/1999*

##### **340-021-205 Relation to Other Rules**

OAR 340-021-200 through 340-021-245 shall apply in addition to all other rules of the Environmental Quality Commission. The adoption of these rules shall not, in any way, affect the applicability of all other rules of the Environmental Quality Commission and the latter shall remain in full force and effect, except as expressly provided otherwise. In cases of apparent conflict, the most stringent rule shall apply.

*State effective: 3/10/1993; EPA approval: 2/25/1997, 62 FR 8385; EPA effective: 4/28/1997*

##### **340-021-210 Applicability**

(1) OAR 340-21-200 through 340-21-245 shall apply in a PM<sub>10</sub> nonattainment area upon publication by EPA of notice in the Federal Register that the area has failed to attain the national ambient air quality standard for PM<sub>10</sub> by the attainment date required in the Clean Air Act.

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<sup>1</sup> The EPA approves the requirements in Table 2 of this paragraph (c) only to the extent they apply to (1) pollutants for which NAAQS have been established (criteria pollutants) and precursors to those criteria pollutants as determined by the EPA for the applicable geographic area; and (2) any additional pollutants that are required to be regulated under Part C of Title I of the CAA, but only for the purposes of meeting or avoiding the requirements of Part C of Title I of the CAA.

(2) (a) OAR 340-21-200 through 340-21-245 shall apply to a major source located outside of a PM<sub>10</sub> nonattainment area upon a determination by the Department based upon a study conducted under subsection (b) of this section that the source has a significant impact on a PM<sub>10</sub> nonattainment area affected under section (1) of this rule.

(b) Upon request of the Department, the owner or operator of any source with the potential to have a significant impact on a PM<sub>10</sub> nonattainment area shall conduct, prior to the attainment date required in the Clean Air Act and in accordance with a study protocol approved by the Department, a receptor and dispersion modeling study of the impact of emissions from the source on the PM<sub>10</sub> nonattainment area.

*State effective: 3/10/1993; EPA approval: 2/25/1997, 62 FR 8385; EPA effective: 4/28/1997*

### **340-021-215 Definitions**

As used in OAR 340-021-200 through 340-021-245:

(1) “Air Conveying System” means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving air stream.

(2) “Charcoal Producing Plant” means an industrial, operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.

(3) “Collection Efficiency” means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.

(4) “Contingency Requirements” means the requirements of OAR 340-0 21-200 through 340-21-245.

(5) “Design Criteria” means the numerical as well as narrative description of the basis of design including, but not necessarily limited to, design flow rates, temperatures, humidities, descriptions of the types and chemical species of contaminants, uncontrolled and expected controlled mass emission rates and concentrations, scopes of any vendor-supplied and owner-supplied equipment and utilities, and a description of any operational controls.

(6) “EPA” means the United States Environmental Protection Agency.

(7) “Fugitive Emissions” means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.

(8) “General Arrangement” means drawings or reproductions which show, as a minimum, the size and location of the control equipment on a source plot plan, the location of equipment served by the emission-control system, the location and elevation above grade of the ultimate point of contaminant emission to the atmosphere, and the diameter of the emission vent.

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

(10) “Large Sawmill” means a sawmill and/or planning mill which produces 25,000 or more board feet/shift of finished product.

(12) “Major Source” means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (OAR 340-020-225(25)).

(13) “Opacity” means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with the Department’s Source Sampling Manual.

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

(15) “Particulate Matter” means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured in accordance with the Department Source Sampling Manual. Particulate matter emission determinations shall consist of the average of three separate consecutive runs. For sources tested using DEQ Method 5 or DEQ Method 7, each run shall have a minimum sampling time of one hour, a maximum sampling time of eight hours, and a minimum sampling volume of 31.8 dscf. For sources tested using DEQ Method 8, each run shall have a minimum sampling time of 15 minutes, and shall collect a minimum particulate sample of 100 mg. Wood waste boilers shall be tested with DEQ Method 5; wood particle dryers, fiber dryers and press/cooling vents shall be tested with DEQ Method 7; and air conveying systems shall be tested with DEQ Method 8.

(16) “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.

(17) “Press/Cooling Vents” means any openings, generally located immediately above the board press or board cooling area, through which particulate and gaseous emissions from panelboard manufacturing (including, but not limited to, particleboard and hardboard) are exhausted, either by natural draft or by powered fan, from the building housing the process.

(18) “Significant Impact” means an annual average impact of  $1.0 \mu\text{g}/\text{m}^3$  or 24-hour average impact of  $5.0 \mu\text{g}/\text{m}^3$  of  $\text{PM}_{10}$  from a source at the point of maximum concentration within a  $\text{PM}_{10}$  nonattainment area as computed by a receptor and dispersion model approved by the Department.

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

*State effective: 3/10/1993; EPA approval: 2/25/1997, 62 FR 8385; EPA effective: 4/28/1997*

### **340-21-220 Compliance Schedule for Existing Sources**

(1) Except as provided in sections (2) and (3) of this rule compliance with applicable contingency requirements for a source that is located in an area prior to the date the contingency requirements first apply under OAR 340-21-210 shall be demonstrated as expeditiously as possible, but in no case later than the following schedule:

(a) No later than three months after the date the contingency requirements first apply under OAR 340-21-210 the owner or operator shall submit Design Criteria and a Notice of Intent to Construct for emission control systems for Department review and approval; and if the Department disapproves the Design Criteria, the owner or operator shall revise the Design Criteria to meet the Department’s objections and submit the revised Design Criteria to the Department no later than one month after receiving the Department’s disapproval;

(b) No later than three months after receiving the Department’s approval of the Design Criteria, the owner or operator shall submit to the Department a General Arrangement and copies of purchase orders for any emission-control devices;

(c) No later than eight months after receiving the Department’s approval of the Design Criteria, the owner or operator shall submit to the Department vendor drawings as approved for construction of any emission-control devices and specifications of any other major equipment in the emission control system in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

(d) No later than nine months after receiving the Department’s approval of the Design Criteria, the owner or operator shall begin construction of any emission-control devices;

(e) No later than sixteen months after receiving the Department’s approval of Design Criteria, the owner or operator shall complete construction in accordance with the Design Criteria;

(f) No later than thirty months from the date the contingency requirements first apply under OAR 340-21-210 the owner or operator shall demonstrate compliance with the applicable contingency

requirements.

(2) Section (1) of this rule shall not apply if the owner or operator has demonstrated within six months after the date the contingency requirements first apply under OAR 340-21-210 that the source is capable of being operated and. is operated in continuous compliance with applicable contingency requirements and the Department has agreed with the demonstration in writing. The Department may grant an extension of up to 'twelve months after the date the contingency requirements first apply under OAR 340-21-210 for a source to demonstrate compliance under this section. The applicable contingency requirements shall be incorporated in the Air Contaminant Discharge Permit issued to the source.

(3) The Department may adjust the schedule specified in paragraphs (a) through (e) of section (1) of this rule if necessary to ensure timely compliance with paragraph (f) of section (1) of this rule.

*State effective: 3/10/1993; EPA approval: 2/25/1997, 62 FR 8385; EPA effective: 4/28/1997*

### **340-021-225 Wood-Waste Boilers**

No person shall cause or permit the emission into the atmosphere from any wood-waste boiler that is located on a plant site where the total heat input capacity from all wood-waste boilers is greater than 35 million Btu/hr:

(1) Any air contaminant for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 10% opacity, unless the permittee demonstrates by source test that the source can comply with the emission limit in section (2) of this rule at higher opacity but in no case shall emissions equal or exceed 20% opacity for more than an aggregate of 3 minutes in any one hour. Specific opacity limits shall be included in the Air Contaminant Discharge Permit for each affected source.

(2) Particulate matter in excess of 0.05 grains per standard cubic foot, corrected to 12% CO<sub>2</sub>.

*State effective: 3/10/1993; EPA approval: 2/25/1997, 62 FR 8385; EPA effective: 4/28/1997*

### **340-021-230 Wood Particle Dryers at Particleboard Plants**

(1) No person shall cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis of finished product equivalent.

(2) No person shall cause or permit the visible emissions from the wood particle dryers at a particleboard plant to exceed 10% opacity, unless the permittee demonstrates by source test that the particleboard matter emission limit in section (1) of this rule can be achieved at higher visible emissions, but in no case shall emissions equal or exceed 20% opacity. Specific opacity limits

shall be included in the Air Contaminant Discharge Permit for each effective source.

*State effective: 3/10/1993; EPA approval: 2/25/1997, 62 FR 8385; EPA effective: 4/28/1997*

### **340-021-235 Hardboard Manufacturing Plants**

No person shall cause or permit the total emissions of particulate matter from all sources within a hardboard plant, other than press/cooling vents, in excess of 0.25 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

*State effective: 3/10/1993; EPA approval: 2/25/1997, 62 FR 8385; EPA effective: 4/28/1997*

### **340-021-240 Air Conveying Systems**

(1) No person shall cause or permit the emission of particulate matter in excess of 0.1 grains per standard cubic foot from any air conveying system emitting less than or equal to 10 tons of particulate matter to the atmosphere during any 12-month period beginning on or after January 1, 1990.

(2) All air conveying systems emitting greater than 10 tons of particulate matter to the atmosphere during any 12-month period beginning on or after January 1, 1990 shall be equipped with a control system with a collection efficiency of at least 98.5 percent or equivalent control as approved by the Department.

(3) No person shall cause or permit the emission of any air contaminant which is equal to or greater than 5% opacity from any air conveying system subject to section (2) of this rule.

*State effective: 3/10/1993; EPA approval: 2/25/1997, 62 FR 8385; EPA effective: 4/28/1997*

### **340-021-245 Fugitive Emissions**

The owner or operator of a large sawmill, any plywood mill or veneer manufacturing plant, particleboard plant, hardboard plant, or charcoal manufacturing plant that is located in an area subject to contingency requirements under OAR 340-021-210 shall comply with OAR 340-030-043.

*State effective: 3/10/1993; EPA approval: 2/25/1997, 62 FR 8385; EPA effective: 4/28/1997*

## **DIVISION 200**

### **GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS**

#### **340-200-0010 Purpose and Application**

(1) This division provides general air pollution procedures and definitions that apply to all air quality rules in OAR 340 divisions 200 through 268.

(2) Divisions 200 through 268 apply in addition to all other rules adopted by the EQC. In cases of apparent conflict between rules within these divisions, the most stringent rule applies unless otherwise expressly stated.

(3) DEQ administers divisions 200 through 268 in all areas of the State of Oregon except when the EQC has designated LRAPA to administer rules within its area of jurisdiction. Subject to, and when provided in divisions 200 through 268, LRAPA is authorized by the EQC as the agency to implement these state rules, and must apply the requirements and procedures contained in these state rules, within its area of jurisdiction. LRAPA may apply any LRAPA rule in lieu of a state rule(s) provided that the LRAPA rule is at least as strict as the state rule(s), LRAPA has submitted the rule to the EQC for its approval, and the EQC has not disapproved the rule.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-200-0020 General Air Quality Definitions**

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

(1) “Act” or “FCAA” means the Federal Clean Air Act, 42 U.S.C.A. §§ 7401 to 7671q.

(2) “Activity” means any process, operation, action, or reaction (e.g., chemical) at a source that emits a regulated pollutant.

(3) “Actual emissions” means the mass emissions of a regulated pollutant from an emissions source during a specified time period as set forth in OAR 340 divisions 214, 220 and 222.

(4) “Adjacent”, as used in the definitions of major source and source and in OAR 340-216-0070, means interdependent facilities that are nearby to each other.

(5) “Affected source” means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.

(6) "Affected states" means all states:

(a) Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or

(b) That are within 50 miles of the permitted source.

(7) "Aggregate insignificant emissions" means the annual actual emissions of any regulated pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified:

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

(b) 120 pounds for lead;

(c) 600 pounds for fluorides;

(d) 500 pounds for PM<sub>10</sub> in a PM<sub>10</sub> nonattainment area;

(e) 500 pounds for direct PM<sub>2.5</sub> in a PM<sub>2.5</sub> 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 CO<sub>2</sub>e for greenhouse gases.

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

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

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

(11) "Ambient air" means that portion of the atmosphere, external to buildings, to which the



general public has access.

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

- (a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under Title I of the FCAA that implements the relevant requirements of the FCAA, including any revisions to that plan promulgated in 40 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 340 division 216, including any term or condition of any preconstruction permits issued under OAR 340 division 224, New Source Review, until or unless DEQ revokes or modifies the term or condition by a permit modification;
- (d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-210-0205 through 340-210-0240, until or unless DEQ revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;
- (e) Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless DEQ revokes or modifies the term or condition by a Notice of Approval or a permit modification;
- (f) Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;
- (g) Any standard or other requirement under section 111 of the FCAA, including section 111(d);
- (h) Any standard or other requirement under section 112 of the FCAA, including any requirement concerning accident prevention under section 112(r)(7) of the FCAA;
- (i) Any standard or other requirement of the acid rain program under Title IV of the FCAA or the regulations promulgated thereunder;
- (j) Any requirements established 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.
- (13) “Attainment area” or “unclassified area” means an area that has not otherwise been designated by EPA as nonattainment with ambient air quality standards for a particular regulated pollutant. Attainment areas or unclassified areas may also be referred to as sustainment or maintenance areas as designated in OAR 340 division 204. Any particular location may be part of an attainment area or unclassified area for one regulated pollutant while also being in a different type of designated area for another regulated pollutant.
- (14) “Attainment pollutant” means a pollutant for which an area is designated an attainment or unclassified area.
- (15) “Baseline emission rate” means the actual emission rate during a baseline period as determined under OAR 340 division 222.
- (16) “Baseline period” means the period used to determine the baseline emission rate for each regulated pollutant under OAR 340 division 222.
- (17) “Best Available Control Technology” or “BACT” means an emission limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of

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

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

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

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

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

(22) “Carbon dioxide equivalent” or “CO<sub>2</sub>e” 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.

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

(a) Constituents of a chemical mixture present at less than 1 percent by weight of any chemical or compound regulated under divisions 200 through 268 excluding divisions 248 and 262 of this

chapter, or less than 0.1 percent by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year;

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

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

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

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

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

(e) Office activities;

(f) Food service activities;

(g) Janitorial activities;

(h) Personal care activities;

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

(j) On-site laundry activities;

(k) On-site recreation facilities;

- (l) Instrument calibration;
- (m) Maintenance and repair shop;
- (n) Automotive repair shops or storage garages;
- (o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
- (p) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;
- (q) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;
- (r) Temporary construction activities;
- (s) Warehouse activities;
- (t) Accidental fires;
- (u) Air vents from air compressors;
- (v) Air purification systems;
- (w) Continuous emissions monitoring vent lines;
- (x) Demineralized water tanks;
- (y) Pre-treatment of municipal water, including use of deionized water purification systems;
- (z) Electrical charging stations;
- (aa) Fire brigade training;
- (bb) Instrument air dryers and distribution;

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

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

(tt) Health, safety, and emergency response activities;

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

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

(ww) Non-contact steam condensate flash tanks;

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

(yy) Boiler blowdown tanks;

(zz) Industrial cooling towers that do not use chromium-based water treatment chemicals;

(aaa) Ash piles maintained in a wetted condition and associated handling systems and activities;

(bbb) Uncontrolled oil/water separators in effluent treatment systems, excluding systems with a throughput of more than 400,000 gallons per year of effluent located at the following sources:

(A) Petroleum refineries;

(B) Sources that perform petroleum refining and re-refining of lubricating oils and greases including asphalt production by distillation and the reprocessing of oils and/or solvents for fuels;  
or

(C) Bulk gasoline plants, bulk gasoline terminals, and pipeline facilities;

(ccc) Combustion source flame safety purging on startup;

(ddd) Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;

(eee) Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and

(fff) White water storage tanks.

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

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

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

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

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

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

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

(29) “Commission” or “EQC” means Environmental Quality Commission.

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

(31) “Construction”:

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



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

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

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

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

(33) “Continuous monitoring systems” means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emissions or concentrations on a continuing basis as specified in the DEQ Continuous Monitoring Manual, 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 (CO<sub>2</sub>e) = 2,756 tons per year

(b) CO = 1 ton per year

(c) NO<sub>x</sub> = 1 ton per year

(d) SO<sub>2</sub> = 1 ton per year

(e) VOC = 1 ton per year

(f) PM = 1 ton per year

(g) PM<sub>10</sub> (except Medford AQMA) = 1 ton per year

(h) PM<sub>10</sub> (Medford AQMA) = 0.5 ton per year and 5.0 pounds/day

(i) Direct PM<sub>2.5</sub> = 1 ton per year

(j) Lead = 0.1 ton per year

(k) Fluorides = 0.3 ton per year

(l) Sulfuric Acid Mist = 0.7 ton per year

(m) Hydrogen Sulfide = 1 ton per year

- (n) Total Reduced Sulfur (including hydrogen sulfide) = 1 ton per year
- (o) Reduced Sulfur = 1 ton per year
- (p) Municipal waste combustor organics (dioxin and furans) = 0.0000005 ton per year
- (q) Municipal waste combustor metals = 1 ton per year
- (r) Municipal waste combustor acid gases = 1 ton per year
- (s) Municipal solid waste landfill gases (measured as nonmethane organic compounds) = 1 ton per year
- (t) Single HAP = 1 ton per year
- (u) Combined HAP (aggregate) = 1 ton per year
- (40) “Department” or “DEQ”:
  - (a) Means Department of Environmental Quality; except
  - (b) As used in OAR 340 divisions 218 and 220 means Department of Environmental Quality, or in the case of Lane County, LRAPA.
- (41) “DEQ method [#]” means the sampling method and protocols for measuring a regulated pollutant as described in the DEQ Source Sampling Manual, 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 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 PM<sub>2.5</sub>” has the meaning provided in the definition of PM<sub>2.5</sub>.
- (46) “Director” means the Director of DEQ or the Director’s designee.

(47) “Draft permit” means the version of an Oregon Title V Operating Permit for which DEQ or LRAPA offers public participation under OAR 340-218-0210 or the EPA and affected State review under 340-218-0230.

(48) “Dry standard cubic foot” means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions.

(49) “Effective date of the program” means the date that the EPA approves the Oregon Title V Operating Permit program submitted by DEQ on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.

(50) “Emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(51) “Emission” means a release into the atmosphere of any regulated pollutant or any air contaminant.

(52) “Emission estimate adjustment factor” or “EEAF” means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.

(53) “Emission factor” means an estimate of the rate at which a regulated pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate).

(54) “Emission limitation” or “Emission standard” or “Emission limitation or standard” means:

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

(b) As used in OAR 340-212-0200 through 340-212-0280, any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of

emission limitation as defined under the FCAA. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions, e.g., pounds of SO<sub>2</sub> per hour, pounds of SO<sub>2</sub> per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO<sub>2</sub>, or as the relationship of uncontrolled to controlled emissions, e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO<sub>2</sub>. 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 OAR 340-212-0200 through 340-212-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, operate and maintain sources using good air pollution control practices, develop and maintain a malfunction abatement plan, keep records, submit reports, or conduct monitoring.

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

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

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

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

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

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

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

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

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

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

(59) "EPA Method 9" means the method for Visual Determination of the Opacity of Emissions From Stationary Sources described in 40 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 a permit or permit attachment limit, in excess of a risk limit under OAR chapter 340, division 245, or in violation of any applicable air quality rule.

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

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

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

(a) A source with potential to emit:

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

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

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

(A) Fugitive emissions and insignificant activity emissions; and

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

(c) Source categories:

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

(B) Coal cleaning plants with thermal dryers;

(C) Kraft pulp mills;

(D) Portland cement plants;

(E) Primary zinc smelters;

(F) Iron and steel mill plants;

(G) Primary aluminum ore reduction plants;

(H) Primary copper smelters;

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

(J) Hydrofluoric acid plants;

- (K) Sulfuric acid plants;
  - (L) Nitric acid plants;
  - (M) Petroleum refineries;
  - (N) Lime plants;
  - (O) Phosphate rock processing plants;
  - (P) Coke oven batteries;
  - (Q) Sulfur recovery plants;
  - (R) Carbon black plants, furnace process;
  - (S) Primary lead smelters;
  - (T) Fuel conversion plants;
  - (U) Sintering plants;
  - (V) Secondary metal production plants;
  - (W) Chemical process plants, excluding ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
  - (X) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;
  - (Y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
  - (Z) Taconite ore processing plants;
  - (AA) Glass fiber processing plants;
  - (BB) Charcoal production plants.
- (d) A major stationary source as defined in part D of Title I of the FCAA, including:



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

(B) For ozone transport regions established 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 PM<sub>10</sub> nonattainment areas classified as “serious,” sources with the potential to emit 70 tons per year or more of PM<sub>10</sub>.

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

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

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

(70) “Fugitive emissions”:

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

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

(71) “General permit”:

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

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

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

(a) Greenhouse Gases (CO<sub>2</sub>e) = 74,000 tons per year

(b) CO = 99 tons per year

(c) NO<sub>x</sub> = 39 tons per year

(d) SO<sub>2</sub> = 39 tons per year

(e) VOC = 39 tons per year

(f) PM = 24 tons per year

(g) PM<sub>10</sub> (except Medford AQMA) = 14 tons per year

(h) PM<sub>10</sub> (Medford AQMA) = 4.5 tons per year and 49 pounds per day

(i) PM<sub>2.5</sub> = 9 tons per year

(j) Lead = 0.5 tons per year

(k) Fluorides = 2 tons per year

(l) Sulfuric Acid Mist = 6 tons per year

(m) Hydrogen Sulfide = 9 tons per year

(n) Total Reduced Sulfur (including hydrogen sulfide) = 9 tons per year

(o) Reduced Sulfur = 9 tons per year

(p) Municipal waste combustor organics (Dioxin and furans) = 0.0000030 tons per year

(q) Municipal waste combustor metals = 14 tons per year

(r) Municipal waste combustor acid gases = 39 tons per year

(s) Municipal solid waste landfill gases (measured as nonmethane organic compounds) = 49 tons per year

(t) Single HAP = 9 tons per year

(u) Combined HAPs (aggregate) = 24 tons per year

(73)(a) “Greenhouse gases” or “GHGs” means the aggregate group of the following six gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Each gas is also individually a greenhouse gas.

(b) The definition of greenhouse gases in subsection (a) of this section does not include, for purposes of division 216, 218, and 224, carbon dioxide emissions from the combustion or decomposition of biomass except to the extent required by federal law.

(74) “Growth allowance” means an allocation of some part of an airshed’s capacity to accommodate future proposed sources and modifications of sources.

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

(76) “Hazardous Air Pollutant” or “HAP” means an air contaminant listed by the EPA under section 112(b) of the FCAA or determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.

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

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

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

(80) “Inherent process equipment” means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents

is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of OAR 340-212-0200 through 340-212-0280, inherent process equipment is not considered a control device.

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

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

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

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

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

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

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

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

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

(89) “Major Modification” means any physical change or change in the method of operation of a source that results in satisfying the requirements of OAR 340-224-0025(90) “Major New Source Review” or “Major NSR” means the new source review process and requirements under OAR 340-224-0010 through 340-224-0070 and OAR 340-224-0500 through 340-224-0540 based on the location and regulated pollutants emitted.

(91) “Major source”:

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

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

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

(i) For hazardous air pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any hazardous air pollutants that has been listed 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 CO<sub>2</sub>e, including fugitive emissions.

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

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

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

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

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

(94) “Monitoring” means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance with an emission limitation or standard such as records of raw material content and usage, or records documenting compliance with work practice requirements. Monitoring may include conducting compliance method tests, such as the procedures in appendix A to 40 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.

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

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

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

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

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

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

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

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

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

(104) “Oregon Title V operating permit” or “Title V permit” means written authorization issued, renewed, amended, or revised under OAR 340 division 218.

(105) “Oregon Title V operating permit program” or “Title V program” means the Oregon

program described in OAR 340 division 218 and approved by the Administrator under 40 C.F.R. part 70.

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

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

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

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

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

(111) “Permit” means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.

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

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

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

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

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

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

Permit Fees in OAR 340 division 220.

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

(119) “PM10”:

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

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

(120) “PM2.5”:

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

(b) When used in the context of PM2.5 precursor emissions, means sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) 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.

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

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

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

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

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

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

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

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

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

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

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

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

(130) “Reattainment area” means an area that is designated as nonattainment and has three

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

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

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

(133) “Regional agency” means Lane Regional Air Protection Agency.

(134) “Regulated air pollutant” or “Regulated pollutant”:

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

(A) Nitrogen oxides or any VOCs;

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

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

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

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

(F) Greenhouse gases; and

(G) Toxic Air Contaminants.

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

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

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

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

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

(137) “Responsible official” means one of the following:

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

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

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

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

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

(d) For affected sources:

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

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

Permit program.

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

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

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

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

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

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

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

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

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

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

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

sources.

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

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

(149) “Section 182(f)” means subsection 182(f) of the FCAA, 42 U.S.C. § 7511a(f), which requires states to include plan provisions in the SIP for NO<sub>x</sub> in ozone nonattainment areas.

(150) “Section 182(f)(1)” means subsection 182(f)(1) of the FCAA, 42 U.S.C. § 7511a(f)(1), which requires states to apply those plan provisions developed for major VOC sources and major NO<sub>x</sub> sources in ozone nonattainment areas.

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

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

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

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

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

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

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

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



(a) Would violate applicable requirements;

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

(c) Is a FCAA Title I modification.

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

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

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

(a) Greenhouse gases (CO<sub>2</sub>e) = 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 (NO<sub>x</sub>) = 40 tons per year

(d) Particulate matter = 25 tons per year

(e) PM<sub>10</sub> = 15 tons per year

(f) Direct PM<sub>2.5</sub> = 10 tons per year

(g) PM<sub>2.5</sub> precursors (SO<sub>2</sub> or NO<sub>x</sub>) = 40 tons per year

(h) Sulfur dioxide (SO<sub>2</sub>) = 40 tons per year

(i) Ozone precursors (VOC or NO<sub>x</sub>) = 40 tons per year except:

(I) In a serious or severe ozone nonattainment area = 25 tons per year

(II) In an extreme ozone nonattainment area = any emissions increase

- (j) Lead = 0.6 tons per year
  - (k) Fluorides = 3 tons per year
  - (l) Sulfuric acid mist = 7 tons per year
  - (m) Hydrogen sulfide = 10 tons per year
  - (n) Total reduced sulfur (including hydrogen sulfide) = 10 tons per year
  - (o) Reduced sulfur compounds (including hydrogen sulfide) = 10 tons per year
  - (p) Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans) = 0.0000035 tons per year
  - (q) Municipal waste combustor metals (measured as particulate matter) = 15 tons per year
  - (r) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride) = 40 tons per year
  - (s) Municipal solid waste landfill emissions (measured as nonmethane organic compounds) = 50 tons per year
  - (t) Ozone depleting substances in aggregate = 100 tons per year
  - (u) For the Medford-Ashland Air Quality Maintenance Area, the SER for PM<sub>10</sub> is defined as 5 tons per year on an annual basis and 50.0 pounds per day on a daily basis.
  - (v) For regulated pollutants not listed in subsections (a) through (u), the SER is zero unless DEQ determines the rate that constitutes a SER.
  - (w) Any new source or modification with an emissions increase less than the rates specified above and that is located within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 µg/m<sup>3</sup> (24 hour average) is emitting at a SER. This subsection does not apply to greenhouse gas emissions.
- (162) “Significant impact” means an additional ambient air quality concentration equal to or greater than the significant impact level. For sources of VOC or NO<sub>x</sub>, a source has a significant impact if it is located within the ozone impact distance defined in OAR 340 division 224.

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

(a) For Class I areas:

(A) PM<sub>2.5</sub>:

(i) annual = 0.06 µg/m<sup>3</sup>

(ii) 24-hour = 0.07 µg/m<sup>3</sup>

(B) PM<sub>10</sub>:

(i) annual = 0.20 µg/m<sup>3</sup>

(ii) 24-hour = 0.30 µg/m<sup>3</sup>

(C) Sulfur dioxide:

(i) annual = 0.10 µg/m<sup>3</sup>

(ii) 24-hour = 0.20 µg/m<sup>3</sup>

(iii) 3-hour = 1.0 µg/m<sup>3</sup>

(D) Nitrogen dioxide: annual = 0.10 µg/m<sup>3</sup>

(b) For Class II areas:

(A) PM<sub>2.5</sub>:

(i) annual = 0.3 µg/m<sup>3</sup>

(ii) 24-hour = 1.2 µg/m<sup>3</sup>

(B) PM<sub>10</sub>:

(i) annual = 0.20 µg/m<sup>3</sup>

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

(C) Sulfur dioxide:

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

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

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

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

(D) Nitrogen dioxide:

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

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

(E) Carbon monoxide:

(i) 8-hour =  $0.5 \text{mg}/\text{m}^3$

(ii) 1-hour =  $2.0 \text{mg}/\text{m}^3$

(c) For Class III areas:

(A) PM<sub>2.5</sub>:

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

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

(B) PM<sub>10</sub>:

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

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

(C) Sulfur dioxide:

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

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

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

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

(E) Carbon monoxide:

(i) 8-hour = 0.5  $\text{mg}/\text{m}^3$

(ii) 1-hour = 2.0  $\text{mg}/\text{m}^3$

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

(165) “Small scale local energy project” means:

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

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

(c) A recycling project;

(d) An alternative fuel project;

(e) An improvement that increases the production or efficiency, or extends the operating life, of a

system, mechanism, series of mechanisms or project otherwise described in this section of this rule, including but not limited to restarting a dormant project;

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

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

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

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

(167) “Source category”:

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

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

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

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

(170) “Startup” and “shutdown” means that time during which a source or control device is

brought into normal operation or normal operation is terminated, respectively.

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

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

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

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

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

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

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

(178) “Title I modification” means one of the following modifications 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 OAR 340-224-0045 Requirements for Sources in Sustainment Areas;

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

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

(179) "Total reduced sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H<sub>2</sub>S).

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

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

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

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

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

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

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

(187) "Upset" or "Breakdown" means any failure or malfunction of any pollution control device



or operating equipment that may cause excess emissions.

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

(189) “Veneer dryer” means equipment in which veneer is dried.

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

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

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

(A) methane;

(B) ethane;

(C) methylene chloride (dichloromethane);

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

(E) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);

(F) trichlorofluoromethane (CFC-11);

(G) dichlorodifluoromethane (CFC-12);

(H) chlorodifluoromethane (HCFC-22);

(I) trifluoromethane (HFC-23);

(J) 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);

(K) chloropentafluoroethane (CFC-115);

(L) 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);

(M) 1,1,1,2-tetrafluoroethane (HFC-134a);

(N) 1,1-dichloro 1-fluoroethane (HCFC-141b);

(O) 1-chloro 1,1-difluoroethane (HCFC-142b);

(P) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);

(Q) pentafluoroethane (HFC-125);

(R) 1,1,2,2-tetrafluoroethane (HFC-134);

(S) 1,1,1-trifluoroethane (HFC-143a);

(T) 1,1-difluoroethane (HFC-152a);

(U) parachlorobenzotrifluoride (PCBTF);

(V) cyclic, branched, or linear completely methylated siloxanes;

(W) acetone;

(X) perchloroethylene (tetrachloroethylene);

(Y) 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);

(Z) 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);

(AA) 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);

(BB) difluoromethane (HFC-32);

(CC) ethylfluoride (HFC-161);

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

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

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

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

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

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

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

(KK) chlorofluoromethane (HCFC-31);

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

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

(NN) 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ( $C_4F_9OCH_3$  or HFE-7100);

(OO) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ( $((CF_3)_2CFCF_2OCH_3)$ );

(PP) 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ( $C_4F_9OC_2H_5$  or HFE-7200);

(QQ) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ( $((CF_3)_2CFCF_2OC_2H_5)$ );

(RR) methyl acetate;

(SS) 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane ( $n-C_3F_7OCH_3$ , 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 ( $HCOOCH_3$ );

(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) HCF<sub>2</sub> OCF<sub>2</sub> H (HFE-134);

(BBB) HCF<sub>2</sub> OCF<sub>2</sub> OCF<sub>2</sub> H (HFE-236cal2);

(CCC) HCF<sub>2</sub> OCF<sub>2</sub> CF<sub>2</sub> OCF<sub>2</sub> H (HFE-338pcc13);

(DDD) HCF<sub>2</sub> OCF<sub>2</sub> OCF<sub>2</sub> CF<sub>2</sub> OCF<sub>2</sub> 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 Solstice<sup>TM</sup> 1233zd(E));

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

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

(HHH) perfluorocarbon compounds which fall into these classes:

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

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

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

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

(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in the DEQ Source Sampling Manual 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) DEQ may require an owner or operator to provide monitoring or testing methods and results demonstrating, to DEQ's satisfaction, the amount of negligibly-reactive compounds in the source's emissions.

(d) The following compounds are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and must

be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

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

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

(194) “Year” means any consecutive 12-month period of time.

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

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

### **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” means Code of Federal Regulations.
- (25) “CMS” means continuous monitoring system.
- (26) “CO” means carbon monoxide.
- (27) “CO<sub>2</sub>e” 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) “NO<sub>x</sub>” means nitrogen oxides.
- (76) “NSPS” means New Source Performance Standards.
- (77) “NSR” means New Source Review.
- (78) “NSSC” means neutral sulfite semi-chemical.
- (79) “O<sub>3</sub>” 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) “SERP” means source emission reduction plan.
- (104) “SIC” means Standard Industrial Classification from the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987).
- (105) “SIP” means State Implementation Plan.
- (106) “SKATS” means Salem-Kaiser Area Transportation Study.
- (107) “SLAMS” means State or Local Air Monitoring Stations.
- (108) “SO2” means sulfur dioxide.
- (109) “SOCMI” means synthetic organic chemical manufacturing industry.
- (110) “SOS” means Secretary of State.
- (111) “SPMs” means Special Purpose Monitors.

- (112) “TAC” means thermostatic air cleaner.
- (113) “TACT” means Typically Achievable Control Technology.
- (114) “TCM” means transportation control measures.
- (115) “TCS” means throttle control solenoid.
- (116) “TIP” means Transportation Improvement Program.
- (117) “tpy” means tons per year.
- (118) “TRS” means total reduced sulfur.
- (119) “TSP” means total suspended particulate matter.
- (120) “UGA” means urban growth area.
- (121) “UGB” means urban growth boundary.
- (122) “USC” means United States Code.
- (123) “US DOT” means United States Department of Transportation.
- (124) “UST” means underground storage tanks.
- (125) “UTM” means universal transverse mercator.
- (126) “VIN” means vehicle identification number.
- (127) “VMT” means vehicle miles traveled.
- (128) “VOC” means volatile organic compounds.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-200-0030 Exceptions**

- (1) Except as provided in section (2), OAR Chapter 340 divisions 200 through 268 do not apply to:
  - (a) Agricultural operations, including but not limited to:
    - (A) Growing or harvesting crops;
    - (B) Raising fowl or animals;
    - (C) Clearing or grading agricultural land;
    - (D) Propagating and raising nursery stock;

(E) Propane flaming of mint stubble; and

(F) Stack or pile burning of residue from Christmas trees, as defined in ORS 571.505, during the period beginning October 1 and ending May 31 of the following year.

(b) Equipment used in agricultural operations, except boilers used in connection with propagating and raising nursery stock.

(c) Barbecue equipment used in connection with any residence.

(d) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families, except woodstoves which shall be subject to regulation under OAR 340 divisions 240 and 262, and as provided in ORS 468A.020(1)(d). Emissions from woodstoves can be used to create emission reduction credits in OAR 340 division 268.

(e) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or instruction of employees in the methods of fire-fighting, which in the opinion of the agency is necessary.

(f) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire-fighting, or for civil defense instruction.

(2) Section (1) does not apply to the extent:

(a) Otherwise provided in ORS 468A.555 to 468A.620, 468A.790, 468A.992, 476.380 and 478.960;

(b) Necessary to implement the federal Clean Air Act (P.L. 88-206 as amended) under ORS 468A.025, 468A.030, 468A.035, 468A.040, 468A.045 and 468A.300 to 468A.330; or

(c) Necessary for the EQC, in the commission's discretion, to implement a recommendation of the Task Force on Dairy Air Quality created under section 3, chapter 799, Oregon Laws 2007, for the regulation of dairy air contaminant emissions.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-200-0035 Reference Materials**

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

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

*State effective: 12/11/2018; EPA approval: 6/06/2019, 84 FR 26347; EPA effective: 7/08/2019*

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

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

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

*State effective: 1/21/2021; EPA approval: 8/11/2021, 86 FR 43954; EPA effective: 9/10/2021*

## **DIVISION 202**

### **AMBIENT AIR QUALITY STANDARDS AND PSD INCREMENTS**

#### **340-202-0010 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

1) “Approved method” means an analytical method for measuring air contaminant concentrations described or referenced in 40 CFR part 50 and Appendices. (6) “Indian Reservation” means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act

(2) “Oregon standard method” means any method of sampling and analyzing for an air contaminant approved by DEQ. Oregon standard methods are kept on file by DEQ and include all methods described in the DEQ Source Sampling Manual and the DEQ Continuous Monitoring Manual referenced in OAR 340-200-0035(2) and (3), respectively.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **340-202-0020 Applicability and Jurisdiction**

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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **AMBIENT AIR QUALITY STANDARDS**

#### **340-202-0050 Purpose and Scope of Ambient Air Quality Standards**

(1) An ambient air quality standard is an established concentration, exposure time, and frequency of occurrence of an air contaminant or multiple contaminants in the ambient air that must not be exceeded. The ambient air quality standards set forth in OAR 340-202-0050 through 340-202-0130 were established to protect both public health and public welfare.

(2) Ambient air quality standards are not generally used to determine the acceptability or unacceptability of emissions from a specific source of air contamination. More commonly, the

measured ambient air quality is compared with the ambient air quality standards to determine the adequacy or effectiveness of emission standards for all sources in a general area. However, if a source or combination of sources are singularly responsible for a violation of ambient air quality standards in a particular area, it may be appropriate to impose emission standards that are more stringent than those otherwise applied to the class of sources involved. Similarly, proposed construction of new sources or expansions of existing sources, that may prevent or interfere with the attainment and maintenance of ambient air quality standards are grounds for issuing an order prohibiting such proposed construction as authorized by ORS 468A.055 and pursuant to OAR 340-210-0205 through 340-210-0250, and OAR 340-218-0190. 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.

(3) In adopting the ambient air quality standards in this division, the EQC recognizes that one or more of the standards are currently being exceeded in certain parts of the state. It is hereby declared to be the policy of the EQC to achieve, by application of a timely but orderly program of pollution abatement, full compliance with ambient air quality standards throughout the state at the earliest possible date.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-202-0060 Suspended Particulate Matter**

Concentrations of the fraction of suspended particulate that is equal to or less than ten microns in aerodynamic diameter in ambient air as measured by an approved method must not exceed:

(1) 150 micrograms of PM<sub>10</sub> per cubic meter of air as a 24-hour average concentration for any calendar day. This standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter as determined in accordance with **Appendix K of 40 CFR 50** is equal to or less than one at any site.

Concentrations of the fraction of suspended particulate that is equal to or less than 2.5 microns in aerodynamic diameter in ambient air as measured by an approved method must not exceed:

(2) 35 micrograms of PM<sub>2.5</sub> per cubic meter of air as a 3-year average of annual 98th percentile 24-hour average values recorded at each monitoring site. This standard is attained when the 3-year average of annual 98th percentile 24-hour average concentrations is equal to or less than 35 micrograms per cubic meter as determined in accordance with **Appendix N of 40 CFR 50**.

(3) 12 micrograms of PM<sub>2.5</sub> per cubic meter of air as a 3-year average of the annual arithmetic mean. This standard is attained when the annual arithmetic mean concentration is equal to or less than 12 micrograms per cubic meter as determined in accordance with **Appendix N of 40 CFR 50**.

*State effective: 10/16/2015; EPA approval: 5/24/2018, 83 FR 24034; EPA effective: 6/25/2018*

### **340-202-0070 Sulfur Dioxide**

Concentrations of sulfur dioxide in ambient air as measured by an approved method for each averaging time must not exceed the following concentrations:

- (1) Annual average: 0.02 ppm as an annual arithmetic mean for any calendar year at any site as measured by the reference method described in appendix A of 40 CFR part 50 or by an equivalent method designated in accordance with 40 CFR part 53.
- (2) 24-hour average: 0.10 ppm as a 24-hour average concentration more than once per calendar year at any site as measured by the reference method described in appendix A of 40 CFR part 50 or by an equivalent method designated in accordance with 40 CFR part 53.
- (3) 3-hour average: 0.50 ppm as a three-hour average concentration more than once per calendar year at any site as measured by the reference method described in appendix A of 40 CFR part 50.
- (4) 1-hour average: 0.075 ppm as a three-year average of the annual 99th percentile of the daily maximum 1-hour average concentration recorded at any monitoring site as determined by appendix T of 40 CFR part 50 as measured by a reference method based on appendix A or A-1 of 40 CFR part 50, or by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR part 53.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-202-0080 Carbon Monoxide**

For comparison to the standard, averaged ambient concentrations of carbon monoxide must be rounded to the nearest integer in parts per million (ppm). Fractional parts of 0.5 or greater must be rounded up. Concentrations of carbon monoxide in ambient air as measured by an approved method, must not exceed:

- (1) 9 ppm as an eight-hour average concentration more than once per year at any site.
- (2) 35 ppm as a one-hour average concentration more than once per year at any site.

*State effective: 7/1/2001; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-202-0090 Ozone**

Concentrations of ozone in ambient air as measured by an approved method must not exceed 0.070 ppm as a daily maximum eight-hour average concentration. This standard is attained when, at any site the average of the annual fourth-highest daily maximum eight-hour average ozone concentration is equal to or less than 0.070 ppm as determined by the method of Appendix I, 40 C.F.R. 50.

*State effective: 5/21/2010; EPA approval: 12/27/2011, 76 FR 80747; EPA effective: 1/26/2012*

*State effective: 10/16/2015; EPA approval: 5/24/2018, 83 FR 24034; EPA effective: 6/25/2018*

### **340-202-0100 Nitrogen Dioxide**

Concentrations of nitrogen dioxide in ambient air as measured by a reference method based on appendix F to 40 CFR part 50 or by a Federal equivalent method (FEM) designated in accordance with 40 CFR part 53 must not exceed:

- (1) 0.053 ppm as an annual average concentration for any calendar year at any site. The standard is met when the annual average concentration in a calendar year is less than or equal to 0.053 ppm, as determined in accordance with appendix S of 40 CFR part 50 for the annual standard.
- (2) 0.100 ppm as a 3-year average of the annual 98th percentile of the 1-hour daily maximum concentrations recorded at any monitoring site. The standard is met when the three-year average of the annual 98th percentile of the daily maximum 1-hour average concentration is less than or equal to 0.100 ppm, as determined in accordance with appendix S of 40 CFR part 50 for the 1-hour standard.
- (3) 0.053 ppm as an annual arithmetic mean concentration as determined in accordance with Appendix S of 40 CFR part 50. The secondary standard is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up). To demonstrate attainment, an annual mean must be based upon hourly data that are at least 75 percent complete or upon data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-202-0130 Ambient Air Quality Standard for Lead**

The concentration of lead and its compounds in ambient air must not exceed:

- (1) 0.15 micrograms per cubic meter as a maximum arithmetic mean averaged over a calendar quarter, as measured by a reference method based on appendix G of 40 CFR part 53 or an equivalent method designated in accordance with 40 CFR part 53.
- (2) The standard is met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with appendix R of 40 CFR part 50, is less than or equal to 0.15 micrograms per cubic meter.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **PREVENTION OF SIGNIFICANT DETERIORATION INCREMENTS**

### **340-202-0200 General**

(1) The purpose of OAR 340-202-0200 through 340-202-0220 is to implement a program to prevent significant deterioration of air quality in the State of Oregon as required by the FCAA Amendments of 1977.

(2) DEQ will review the adequacy of the SIP on a periodic basis and within 60 days of such time as information becomes available that an applicable increment is being violated. Any SIP revision resulting from the reviews will be subject to the opportunity for public hearing in accordance with procedures established in the SIP.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-202-0210 Ambient Air PSD Increments**

(1) This rule defines significant deterioration. In areas designated as Class I, II or III, emissions from new or modified sources must be limited such that aggregate increases in regulated pollutant concentration over the baseline concentration, as defined in OAR 340-225-0020, are less than the following PSD increments or maximum allowable increases:

(a) For Class I areas:

(A) PM<sub>2.5</sub>:

(i) Annual arithmetic mean = 1 microgram per cubic meter

(ii) 24-hour maximum = 2 micrograms per cubic meter

(B) PM<sub>10</sub>:

(i) Annual arithmetic mean = 4 micrograms per cubic meter

(ii) 24-hour maximum = 8 micrograms per cubic meter

(C) Sulfur dioxide:

(i) Annual arithmetic mean = 2 micrograms per cubic meter

(ii) 24-hour maximum = 5 micrograms per cubic meter

(iii) 3-hour maximum = 25 micrograms per cubic meter

(D) Nitrogen dioxide:



(i) Annual arithmetic mean = 2.5 micrograms per cubic meter

(b) For Class II areas:

(A) PM<sub>2.5</sub>:

(i) Annual arithmetic mean = 4 micrograms per cubic meter

(ii) 24-hour maximum = 9 micrograms per cubic meter

(B) PM<sub>10</sub>:

(i) Annual arithmetic mean = 17 micrograms per cubic meter

(ii) 24-hour maximum = 30 micrograms per cubic meter

(C) Sulfur dioxide:

(i) Annual arithmetic mean = 20 micrograms per cubic meter

(ii) 24-hour maximum = 91 micrograms per cubic meter

(iii) 3-hour maximum = 512 micrograms per cubic meter

(D) Nitrogen dioxide:

(i) Annual arithmetic mean = 25 micrograms per cubic meter

(c) For Class III areas:

(A) PM<sub>2.5</sub>:

(i) Annual arithmetic mean = 8 micrograms per cubic meter

(ii) 24-hour maximum = 18 micrograms per cubic meter

(B) PM<sub>10</sub>:

(i) Annual arithmetic mean = 34 micrograms per cubic meter

(ii) 24-hour maximum = 60 micrograms per cubic meter

(C) Sulfur dioxide:

(i) Annual arithmetic mean = 40 micrograms per cubic meter

(ii) 24-hour maximum = 182 micrograms per cubic meter

(iii) 3-hour maximum = 700 micrograms per cubic meter

(D) Nitrogen dioxide:

(i) Annual arithmetic mean = 50 micrograms per cubic meter

(2) For any period other than an annual period, the applicable maximum allowable increase or PSD increment may be exceeded during one such period per year at any one location.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-202-0220 Ambient Air Ceilings**

No concentration of a pollutant may exceed:

(1) The concentration permitted under the national secondary ambient air quality standard;

(2) The concentration permitted under the national primary ambient air quality standard; or

(3) The concentration permitted under the state ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-202-0225 Ambient Air Quality Impact Levels for Maintenance Areas**

The following ambient air quality impact levels apply to the areas specified for the purpose of the air quality analysis in OAR 340-224-0060 and 340-224-0260, if required.

(1) In a carbon monoxide maintenance area, 0.5 mg/m<sup>3</sup> (8-hour average) and 2 mg/m<sup>3</sup> (1-hour average).

(2) In a PM<sub>10</sub> maintenance area:

(a) 120 µg/m<sup>3</sup> (24-hour average) in the Grants Pass PM<sub>10</sub> maintenance area;

(b) 140 µg/m<sup>3</sup> (24-hour average) in the Klamath Falls PM<sub>10</sub> maintenance area; or

(c) 140 µg/m<sup>3</sup> (24-hour average) in the Lakeview PM<sub>10</sub> maintenance area. In addition, a single source impact is limited to an increase of 5 µg/m<sup>3</sup> (24-hour average) in the Lakeview PM<sub>10</sub> maintenance area.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 204**

### **DESIGNATION OF AIR QUALITY AREAS**

#### **340-204-0010 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 OAR 340-200-0020, the definition in this rule applies to this division. Definitions of boundaries in this rule also apply to OAR 340 divisions 200 through 268 and throughout the State of Oregon Clean Air Act Implementation Plan adopted under 340-200-0040.

(1) “Eugene-Springfield UGB” means the area within the bounds beginning at the Willamette River at a point due east from the intersection of East Beacon Road and River Loop No.1; thence southerly along the Willamette River to the intersection with Belt Line Road; thence easterly along Belt Line Road approximately one-half mile to the intersection with Delta Highway; thence northwesterly and then northerly along Delta Highway and on a line north from the Delta Highway to the intersection with the McKenzie River; thence generally southerly and easterly along the McKenzie River approximately eleven miles to the intersection with Marcola Road; thence southwesterly along Marcola Road to the intersection with 42nd Street; thence southerly along 42nd Street to the intersection with the northern branch of US Highway 126; thence easterly along US Highway 126 to the intersection with 52nd Street; thence north along 52nd Street to the intersection with High Banks Road; thence easterly along High Banks Road to the intersection with 58th Street; thence south along 58th Street to the intersection with Thurston Road; thence easterly along Thurston Road to the intersection with the western boundary of Section 36, T17S, R2W; thence south to the southwest corner of Section 36, T17S, R2W; thence west to the Springfield City Limits; thence following the Springfield City Limits southwesterly to the intersection with the western boundary of Section 2, T18S, R2W; thence on a line southwest to the Private Logging Road approximately one-half mile away; thence southeasterly along the Private Logging Road to the intersection with Wallace Creek; thence southwesterly along Wallace Creek to the confluence with the Middle Fork of the Willamette River; thence generally northwesterly along the Middle Fork of the Willamette River approximately seven and one-half miles to the intersection with the northern boundary of Section 11, T18S, R3W; thence west to the northwest corner of Section 10, T18S, R3W; thence south to the intersection with 30th Avenue; thence westerly along 30th Avenue to the intersection with the Eugene City

Limits; thence following the Eugene City Limits first southerly then westerly then northerly and finally westerly to the intersection with the northern boundary of Section 5, T18S, R4W; thence west to the intersection with Greenhill Road; thence north along Greenhill Road to the intersection with Barger Drive; thence east along Barger Drive to the intersection with the Eugene City Limits (Ohio Street); thence following the Eugene City Limits first north then east then north then east then south then east to the intersection with Jansen Drive; thence east along Jansen Drive to the intersection with Belt Line Road; thence northeasterly along Belt Line Road to the intersection with Highway 99; thence northwesterly along Highway 99 to the intersection with Clear Lake Road; thence west along Clear Lake Road to the intersection with the western boundary of Section 9, T17S, R4W; thence north to the intersection with Airport Road; thence east along Airport Road to the intersection with Highway 99; thence northwesterly along Highway 99 to the intersection East Enid Road; thence east along East Enid Road to the intersection with Prairie Road; thence southerly along Prairie Road to the intersection with Irvington Road; thence east along Irvington Road to the intersection with the Southern Pacific Railroad Line; thence southeasterly along the Southern Pacific Railroad Line to the intersection with Irving Road; thence east along Irving Road to the intersection with Kalmia Road; thence northerly along Kalmia Road to the intersection with Hyacinth Road; thence northerly along Hyacinth Road to the intersection with Irvington Road; thence east along Irvington Road to the intersection with Spring Creek; thence northerly along Spring Creek to the intersection with River Road; thence northerly along River Road to the intersection with East Beacon Drive; thence following East Beacon Drive first east then south then east to the intersection with River Loop No.1; thence on a line due east to the Willamette River and the point of beginning.

(2) “Grants Pass CBD” means the area within the City of Grants Pass enclosed by “B” Street on the north, 8th Street to the east, “M” Street on the south, and 5th Street to the west.

(3) Grants Pass Control Area means the area of the state beginning at the northeast corner of Section 35, T35S, R5W; thence south to the southeast corner of Section 11, T37S, R5W; thence west to the southwest corner of Section 9, T37S, R6W; thence north to the northwest corner of Section 33, T35S, R6W; thence east to the point of beginning.

(4) “Grants Pass UGB” as shown on the Plan and Zoning maps for the City of Grants Pass as of Feb. 1, 1988 is the area within the bounds beginning at the NW corner of Sec. 7, T36S, R5W; thence south to the SW corner of Sec. 7; thence west along the southern boundary of Sec. 12, T36S, R5W approx. 2000 feet; thence south approx. 100 feet to the northern right of way of the Southern Pacific Railroad Line (SPRR Line); thence southeasterly along said right of way approx. 800 feet; thence south approx. 400 feet; thence west approx. 1100 feet; thence south approx. 700 feet to the intersection with the Hillside Canal; thence west approx. 100 feet; thence south approx. 550 feet to the intersection with Upper River Road; thence southeasterly along Upper River Road and continuing east along Old Upper River Road approx. 700 feet; thence south approx. 1550 feet; thence west approx. 350 feet; thence south approx. 250 feet; thence west approx. 1000 feet; thence south approx. 600 feet to the north end of Roguela Lane; thence east

approx. 400 feet; thence south approx. 1400 feet to the intersection with Lower River Road; thence west along Lower River Road approx. 1400 feet; thence south approx. 1350 feet; thence west approx. 25 feet; thence south approx. 1200 feet to the south bank of the Rogue River; thence northwesterly along said bank approx. 2800 feet; thence on a line southwesterly and parallel to Parkhill Place approx. 600 feet; thence northwesterly at a 90 degree angle approximately 300 feet to the intersection with Parkhill Place; thence southwesterly along Parkhill Place approx. 250 feet; thence on a line southeasterly forming a 90 degree angle approximately 300 feet to a point even with Leonard Road; thence west approx. 1500 feet along Leonard Road; thence north approx. 200 feet; thence west to the west side of Schroeder Lane; thence north approx. 150 feet; thence west approx. 200 feet; thence south to the intersection with Leonard Road; thence west along Leonard Road approx. 450 feet; thence north approx. 300 feet; thence east approx. 150 feet; thence north approx. 400 feet; thence west approx. 500 feet; thence south approx. 300 feet; thence west to the intersection with Coutant Lane; thence south along Coutant Lane to the intersection with Leonard Road; thence west along Leonard Road to the intersection with Buena Vista Lane; thence north along the west side of Buena Vista Lane approx. 200 feet; thence west approx. 150 feet; thence north approx. 150 feet; thence west approx. 200 feet; thence north approx. 400 feet; thence west approx. 600 feet to the intersection with the western boundary of Sec. 23, T36S, R6W; thence south to the intersection with Leonard Road; thence west along Leonard Road approx. 300 feet; thence north approx. 600 feet to the intersection with Darneille Lane; thence northwesterly along Darneille Lane approx. 200 feet; thence west approx. 300 feet; thence south approx. 600 feet to the intersection with Leonard Road; thence west along Leonard Road approx. 700 feet; thence south approx. 1350 feet; thence east approx. 1400 feet to the intersection with Darneille Lane; thence south along Darneille Lane approx. 600 feet; thence west approx. 300 feet; thence south to the intersection with Redwood Avenue; thence east along Redwood Avenue to the intersection with Hubbard Lane and the western boundary of Sec. 23, T36S, R6W; thence south along Hubbard Lane approx. 1850 feet; thence west approx. 1350 feet; thence south to the south side of U.S. Highway 199; thence westerly along U.S. 199 approx. 1600 feet to the intersection with the north-south midpoint of Sec. 27, T36S, R6W; thence south approx. 2200 feet; thence east approx. 1400 feet; thence north approx. 1000 feet; thence east approx. 300 feet; thence north approx. 250 feet to the intersection with the Highline Canal; thence northerly along the Highline Canal approx. 900 feet; thence east to the intersection with Hubbard Lane; thence north along Hubbard Lane approximately 600 feet; thence east approx. 200 feet; thence north approx. 400 feet to a point even with Canal Avenue; thence east approx. 550 feet; thence north to the south side of U.S. 199; thence easterly along the southern edge of U.S. 199 to the intersection with Willow Lane; thence south along Willow Lane to the intersection with Demaray Drive; thence easterly along Demaray Drive and continuing along the southern edge of U.S. 199 to the intersection with Dowell Road; thence south along Dowell Road approx. 550 feet; thence easterly approx. 750 feet; thence north to the intersection with the South Canal; thence easterly along the South Canal to the intersection with Schutzwahl Lane; thence south approx. 1300 feet to a point even with West Harbeck Road; thence east

approx. 2000 feet to the intersection with Allen Creek; thence southerly along Allen Creek approx. 1400 feet to a point even with Denton Trail to the west; thence west to the intersection with Highline Canal; thence southerly along Highline Canal to the intersection with the southern boundary of Sec. 25, T36S, R6W; thence east to the intersection with Allen Creek; thence southerly along Allen Creek to the intersection with the western boundary of Sec. 31, T36S, R5W; thence south to the SW corner of Sec. 31; thence east to the intersection with Williams Highway; thence southeasterly along Williams Highway approx. 1300 feet; thence east approx. 200 feet; thence north approx. 400 feet; thence east approx. 700 feet; thence north to the intersection with Espey Road; thence west along Espey Road approx. 150 feet; thence north approx. 600 feet; thence east approx. 300 feet; thence north approx. 2000 feet; thence west approx. 2100 feet; thence north approx. 1350 feet; thence east approx. 800 feet; thence north approx. 2800 feet to the east-west midline of Sec. 30, T36S, R5W; thence on a line due NE approx. 600 feet; thence north approx. 100 feet; thence east approx. 600 feet; thence north approx. 100 feet to the intersection with Highline Canal; thence easterly along Highline Canal approx. 1300 feet; thence south approx. 100 feet; thence east to the intersection with Harbeck Road; thence north along Harbeck Road to the intersection with Highline Canal; thence easterly along Highline Canal to a point approx. 250 feet beyond Skyway Road; thence south to the intersection with Skyway Road; thence east to the intersection with Highline Canal; thence southeasterly along Highline Canal approx. 1200 feet; thence on a line due SW to the intersection with Bluebell Lane; thence southerly along Bluebell Lane approx. 150 feet; thence east to the intersection with Sky Crest Drive; thence southerly along Sky Crest Drive to the intersection with Harper Loop; thence southeasterly along Harper Loop to the intersection with the east-west midline of Sec. 29, T36S, R5W; thence east approx. 400 feet; thence south approx. 1300 feet to a point even with Troll View Road to the east; thence east to the intersection with Hamilton Lane; thence north along Hamilton Lane to the intersection with the Highline Canal; thence northeasterly along the Highline Canal to the northern boundary of Sec. 28, T36S, R5W; thence east approx. 1350 feet to the transmission line; thence north to the intersection with Fruitdale Drive; thence southwesterly along Fruitdale Drive approx. 700 feet; thence north to the northern edge of U.S. 199; thence easterly along the northern edge of U.S. 199 approx. 50 feet; thence north to the north bank of the Rogue River; thence northeasterly along the north bank of the Rogue River approx. 2100 feet to a point even with Ament Road; thence north to Ament Road and following Ament Road to U.S. Interstate Highway 5 (U.S. I-5); thence continuing north to the 1200 foot contour line; thence following the 1200 foot contour line northwesterly approx. 7100 feet to the city limits and a point even with Savage Street to the west; thence north following the city limits approx. 400 feet; thence west to the intersection with Beacon Street; thence north along Beacon Street and the city limits approx. 250 feet; thence east along the city limits approx. 700 feet; thence north along the city limits approx. 2200 feet; thence southwesterly along the city limits approximately 800 feet to the intersection with the 1400 foot contour line; thence northerly and northwesterly along the 1400 foot contour line approx. 900 feet to the intersection with the northern boundary of Sec. 9, T36S, R5W; thence west along said boundary

approx. 100 feet to the NW corner of Sec. 9; thence south along the western boundary of Sec. 9 approx. 700 feet; thence west approx. 1400 feet; thence north approx. 2400 feet; thence west approx. 1350 feet; thence north approx. 1100 feet to the city limits; thence following the city limits first west approx. 1550 feet, then south approx. 800 feet, then west approx. 200 feet, then south approx. 200 feet, then east approx. 200 feet, then south approx. 300 feet, and finally westerly approx. 1200 feet to the intersection with the western boundary of Sec. 5, T36S, R5W; thence south along said boundary to the northern side of Vine Avenue; thence northwesterly along the northern side of Vine Avenue approx. 3150 feet to the intersection with the west fork of Gilbert Creek; thence north to the intersection with the southern right of way of U.S. I-5; thence northwesterly along said right of way approx. 1600 feet; thence south to the intersection with Old Highland Avenue; thence northwesterly along Highland Avenue approx. 650 feet; thence west approx. 350 feet; thence south approx. 1400 feet; thence east approx. 700 feet; thence south approx. 1000 feet; thence on a line SW approx. 800 feet; thence south approx. 1400 feet to the intersection with the northern boundary of Sec. 7, T36S, R5W; thence west to the NW corner of Sec. 7, the point of beginning.

(5) "Klamath Falls control area" means the area of the state beginning at the northeast corner of Section 8, T38S, R10E, thence south to the southeast corner of Section 5, T40S, R10E; thence west to the southwest corner of Section 3, T40S, R8E; thence north to the northwest corner of Section 10, T38S, R8E; thence east to the point of beginning.

(6) "Klamath Falls nonattainment area" means the area of the state beginning at the northwest corner of Section 31, T37S, R9E; thence east approximately two miles to the northeast corner of Section 32; thence south approximately four miles to the southeast corner of Section 17, T38S, R9E; thence east approximately one mile to the southwest corner of Section 15; thence north approximately one mile to the northwest corner of Section 15; thence east approximately 2 miles to the northeast corner of Section 14; thence south approximately one mile to the northwest corner of section 24; thence east approximately one mile to the northeast corner of Section 24; thence south approximately three miles to the southeast corner of Section 36; thence east approximately four miles to the northeast corner of Section 3, T39S, R10E; thence south approximately three miles to the southeast corner of Section 15; thence west approximately two miles to the southwest corner of Section 16; thence south approximately two miles to the southeast corner of Section 29; thence west approximately five miles to the southwest corner of Section 27, T39S, R9E; thence north approximately one mile to the northeast corner of Section 27; thence west approximately four miles to the southwest corner of Section 24, T39S R8E; thence north approximately two miles to the northeast corner of Section 13; thence west approximately one mile to the southwest corner of Section 11; thence north approximately four miles to the northwest corner of Section 26 T38S, R8E; thence west one mile to the southwest corner of Section 22; thence north approximately one mile to the northwest corner of Section 22; thence west approximately one mile to the southwest corner of Section 16; thence north approximately one mile to the northeast corner of Section 16; thence west approximately one

mile to the southwest corner of Section 8; thence north approximately two miles to the northwest corner of Section 5; thence east to the northeast corner of Section 1; thence north approximately one mile to the point of beginning.

(7) "Klamath Falls UGB" means the area within the bounds beginning at the southeast corner of Section 36, Township 38 South, Range 9 East; thence northerly approximately 4500 feet; thence westerly approximately 1/4 mile; thence northerly approximately 3/4 mile into Section 25, T38S, R9E; thence westerly approximately 1/4 mile; thence northerly approximately 1/2 mile to the southern boundary of Section 24, T38S, R9E; thence westerly approximately 1/2 mile to the southeast corner of Section 23, T38S, R9E; thence northerly approximately 1/2 mile; thence westerly approximately 1/4 mile; thence northerly approximately 1/2 mile to the southern boundary of Section 14, T38S, R9E; thence generally northwesterly along the 5000 foot elevation contour line approximately 3/4 mile; thence westerly 1 mile; thence north to the intersection with the northern boundary of Section 15, T38S, R9E; thence west 1/4 mile along the northern boundary of Section 15, T38S, R9E; thence generally southeasterly following the 4800 foot elevation contour line around the old Oregon Institute of Technology Campus to meet with the westerly line of Old Fort Road in Section 22, T38S, R9E; thence southwesterly along the westerly line of Old Fort Road approximately 1 and 1/4 miles to Section 27, T38S, R9E; thence west approximately 1/4 mile; thence southwesterly approximately 1/2 mile to the intersection with Section 27, T38S, R9E; thence westerly approximately 1/2 mile to intersect with the Klamath Falls City Limits at the northerly line of Loma Linda Drive in Section 28, T38S, R9E; thence northwesterly along Loma Linda Drive approximately 1/4 mile; thence southwesterly approximately 1/8 mile to the Klamath Falls City Limits; thence northerly along the Klamath Falls City Limits approximately 1 mile into Section 21, T38S, R9E; thence westerly approximately 1/4 mile; thence northerly approximately 1 mile into Section 17, T38S, R9E; thence westerly approximately 3/4 mile into Section 17, T38S, R9E; thence northerly approximately 1/4 mile; thence westerly approximately 1 mile to the west boundary of Highway 97 in Section 18, T38S, R9E; thence southeasterly along the western boundary of Highway 97 approximately 1/2 mile; thence southwesterly away from Highway 97; thence southeasterly to the intersection with Klamath Falls City Limits at Front Street; thence westerly approximately 1/4 mile to the western boundary of Section 19, T38S, R9E; thence southerly approximately 1 and 1/4 miles along the western boundary of Section 19, T38S, R9E and the Klamath Falls City Limits to the south shore line of Klamath Lake; thence northwesterly along the south shore line of Klamath Lake approximately 1 and 1/4 miles across Section 25, T38S, R9E and Section 26, T38S, R9E; thence westerly approximately 1/2 mile along Section 26, T38S, R9E; thence southerly approximately 1/2 mile to Section 27, T38S, R9E to the intersection with eastern boundary of Orindale Draw, thence southerly along the eastern boundary of Orindale Draw approximately 1 and 1/4 miles into Section 35, T38S, R9E; thence southerly approximately 1/2 mile into Section 2, T39S, R8E; thence easterly approximately 1/4 mile; thence northerly approximately 1/4 mile to the southeast corner of Section 35, T38S, R8E and the Klamath Falls City Limits; thence easterly approximately 1/2 mile to the northern boundary of Section 1, T38S,



R8E; thence southeasterly approximately 1/2 mile to Orindale Road; thence north 500 feet along the west side of an easement; thence easterly approximately 1 and 1/4 miles through Section 1, T38S, R8E to the western boundary of Section 6, T39S, R9E; thence southerly approximately 3/4 mile to the southwest corner of Section 6, T39S, R9E; thence easterly approximately 1/8 mile to the western boundary of Highway 97; thence southwesterly along the Highway 97 right-of-way approximately 1/4 mile; thence westerly approximately 1/2 mile to Agate Street in Section 7, T39S, R8E; thence northerly approximately 1/4 mile; thence westerly approximately 3/4 mile to Orindale Road in Section 12, T39S, R8E; thence northerly approximately 1/4 mile into Section 1, T39S, R8E; thence westerly approximately 3/4 mile to the Section 2, T39S, R8E boundary line; thence southerly approximately 3/4 mile along the Section 2, T39S, R8E boundary line to the northwest corner of Section 12, T39S, R8E; thence westerly approximately 1/8 mile into Section 11, T39S, R8E; thence southerly approximately 1/8 mile; thence northeasterly approximately 3/4 mile to the southern boundary of Section 12, T39S, R8E at Balsam Drive; thence southerly approximately 1/4 mile into Section 12, T39S, R8E; thence easterly approximately 1/4 mile to Orindale Road; thence southeasterly approximately 500 feet to Highway 66; thence southwesterly approximately 1/2 mile along the boundary of Highway 66 to Holiday Road; thence southerly approximately 1/2 mile into Section 13, T39S, R8E; thence northeasterly approximately 1/4 mile to the eastern boundary of Section 13, T39S, R8E; thence northerly approximately 1/4 mile along the eastern boundary of Section 13, T39S, R8E; thence westerly approximately 1/4 mile to Weyerhaeuser Road; thence northerly approximately 1/8 mile; thence easterly approximately 1/8 mile; thence northerly approximately 1/8 mile; thence westerly approximately 1/8 mile to Farrier Avenue; thence northerly approximately 1/4 mile; thence easterly approximately 1/4 mile to the eastern boundary of Section 13, T39S, R8E; thence northerly approximately 1/8 mile along the eastern boundary of Section 13, T39S, R8E; thence easterly approximately 1/4 mile along the northern section line of Section 18, T39S, R8E; thence southerly approximately 1/4 mile; thence easterly approximately 1/2 mile to the boundary of Highway 97; thence southerly approximately 1/3 mile to the Burlington Northern Right-of-Way; thence northeasterly approximately 1 and 1/3 miles along the high water line of the Klamath River to the Southside Bypass in Section 8, T39S, R9E; thence southeasterly along the Southside Bypass to the Southern Pacific Right-of-Way in Section 9, T39S, R9E; thence southerly approximately 1/2 mile along the Southern Pacific Right-of-Way; thence southwesterly approximately 1/4 mile along the Midland Highway; thence southeasterly approximately 1/4 mile to the old railroad spur; thence easterly 1/4 mile along the old railroad spur; thence southerly approximately 1/4 mile in Section 16, T39S, R9E; thence westerly approximately 1/3 mile; thence southerly approximately 1/4 mile; thence easterly approximately 1/16 mile in Section 21, T39S, R9E; thence southerly approximately 1/8 mile to the Lost River Diversion Channel; thence southeasterly approximately 1/4 mile along the northern boundary of the Lost River Diversion Channel; thence easterly approximately 3/4 mile along Joe Wright Road into Section 22, T39S, R9E; thence southeasterly approximately 1/8 mile on the eastern boundary of the Southern Pacific Right-of-Way; thence southeasterly approximately 1 mile along the western

boundary of the Southern Pacific Right-of-Way across Section 22, T39S, R9E and Section 27, T39S, R9E to a point 440 yards south of the northern boundary of Section 27, T39S, R9E; thence easterly to Kingsley Field; thence southeasterly approximately 3/4 mile to the southern boundary of Section 26, T39S, R9E; thence east approximately 1/2 mile along the southern boundary of Section 26, T39S, R9E to a pond; thence north-northwesterly for 1/2 mile following the Klamath Falls City Limits; thence north 840 feet; thence east 1155 feet to Homedale Road; thence north along Homedale Road to a point 1/4 mile north of the southern boundary of Section 23, T39S, R9E; thence west 1/4 mile; thence north 1 mile to the Southside Bypass in Section 14, T39S, R9E; thence east 1/2 mile along the Southside Bypass to the eastern boundary of Section 14, T39S, R9E; thence north 1/2 mile; thence east 900 feet into Section 13, T39S, R9E; thence north 1320 feet along the USBR 1-C 1-A to the southern boundary of Section 12, T39S, R9E; thence north 500 feet to the USBR A Canal; thence southeasterly 700 feet along the southern border of the USBR A Canal back into Section 13, T39S, R9E; thence southeast 1600 feet to the northwest parcel corner of an easement for the Enterprise Irrigation District; thence east-northeast 2200 feet to the eastern boundary of Section 13, T39S, R9E; thence north to the southeast corner of Section 12, T39S, R9E; thence along the Enterprise Irrigation Canal approximately 1/2 mile to Booth Road; thence east 1/2 mile to Vale Road; thence north 1 mile to a point in Section 6, T39S, R10E that is approximately 1700 feet north of the southern boundary of Section 6, T39S, R10E; thence west approximately 500 feet; thence south approximately 850 feet; thence west approximately 200 feet; thence north approximately 900 feet; thence west approximately 1600 feet to the western boundary of Section 6, T39S, R10E; thence north approximately 1/2 mile to the southeast corner of Section 36, T38S, R9E, the point of beginning.

(8) "La Grande UGB" means the area within the bounds beginning at the point where U.S. Interstate 84 (I-84) intersects Section 31, Township 2 South, Range 38 East; thence east along I-84 to the Union County Fairgrounds; thence north and then east on a line encompassing the Union County Fairgrounds to the intersection with Cedar Street; thence further east approximately 500 feet, encompassing two (2) residential properties; thence on a line south to the intersection with the northern bank of the Grande Ronde River; thence westerly along the northern bank of the Grande Ronde River to the intersection with the western edge of Mount Glenn Road and Riverside Park; thence north along the western edge of Mount Glenn Road and Riverside Park to the intersection with Fruitdale Road; thence east along Fruitdale Road and the northern boundary of Riverside Park to the eastern boundary of Riverside Park; thence south along the eastern boundary of Riverside Park to the north bank of the Grande Ronde River; thence on a line southeast to the intersection with the northern edge of I-84; thence easterly along the northern edge of I-84 to May Street; thence easterly along May Street to the intersection with State Highway 82; thence northeasterly along State Highway 82 to a point approximately 1/4 mile from the eastern edge of Section 4, T3S, R38E; thence south to the intersection with Section 9, T3S, R38E, and the southern edge of Buchanan Avenue; thence west along the southern edge of Buchanan Avenue to the intersection with the northern edge of I-84; thence on a line south to the southern edge of I-84; thence southeasterly along the southern edge of I-84 approximately

2500 feet; thence on a line due west approximately 1400 feet; thence on a line due south to the intersection with the Union Pacific Railroad Line; thence southeasterly along the Union Pacific Railroad Line to the intersection with Gekeler Lane; thence west along Gekeler Lane to the intersection with U.S. Highway 30; thence southeast along U.S. Highway 30 to the intersection with the western boundary of Section 15, T3S, R38E; thence on a line west following existing property boundaries approximately 2900 feet; thence on a line north following existing property boundaries approximately 250 feet; thence on a line east following existing property boundaries approximately 650 feet; thence north on a line to the intersection with Gekeler Lane; thence west along Gekeler Lane to the intersection with 20th Avenue; thence south along 20th Avenue to the intersection with Foothill Road; thence southeasterly along Foothill Road approximately 2900 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line south following existing property boundaries approximately 1250 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line north following existing property boundaries approximately 450 feet to the intersection with the southernmost part of the La Grande City Limits; thence westerly and northwesterly along the southernmost part of the La Grande City Limits approximately 1100 feet to the intersection with the 3000 foot elevation contour line; thence westerly following the 3000 foot elevation contour line and existing property boundaries approximately 2200 feet; thence on a line north following existing property boundaries approximately 1900 feet; thence on a line west following existing property boundaries approximately 500 feet; thence on a line north to the La Grande City Limits; thence west along the La Grande City Limits and following existing property boundaries approximately 650 feet; thence on a line south following existing property boundaries approximately 900 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line north to the intersection with the La Grande City Limits; thence west along the southern boundary of the La Grande City Limits to the intersection with the western boundary of the La Grande City Limits; thence north along the western boundary of the La Grande City Limits and following existing property lines approximately 500 feet; thence on a line west following existing property boundaries approximately 200 feet; thence on a line north following existing property boundaries approximately 700 feet; thence east to the first 3000 foot elevation contour line west of the La Grande City Limits; thence northerly following that 3000 foot elevation contour line to the intersection with Deal Canyon Road; thence easterly along Deal Canyon Road to the intersection with the western boundary of the La Grande City Limits; thence northerly along the western boundary of the La Grande City Limits to the intersection with U.S. Highway 30; thence northwesterly along U.S. Highway 30 and following existing property boundaries approximately 1400 feet; thence on a line west to the intersection with the western boundary of Section 6, T3S, R38E; thence north along the western boundaries of Section 6, T3S, R38E and Section 31, T2S, R38E to the point of beginning.

(9) "Lakeview UGB" means the area beginning at the corner common to sections 21, 22, 27, and 28, T39S, R20E; thence north on the section line between section 21 and 22 to the section corner common to section 15, 16, 21, and 22; thence west along the section line between section 21 and

16 to the section corner common to sections 16, 17, 20, and 21; thence north along the section line between section 16 and 17 approximately 3550 feet to the east branch of Thomas Creek; thence northwesterly along the east branch of Thomas Creek to the center line of Highway 140; thence east along the center line of Highway 140 to the section corner common to sections 8, 9, 16, and 17, T39S, R20E; thence north along the section line between sections 8 and 9 to the section corner common to sections 4, 5, 8, and 9, T39S, R20E; thence north along the section line between section 4 and 5 to the section corner common to section 4 and 5, T39S, R20E and sections 32 and 33, T38S, R20E; thence east along the section line between sections 4 and 33 to the section corner common to sections 3 and 4, T39S, R20E and sections 33 and 34, T38S, R20E; thence south along the eastern boundary of section 4 approximately 4,1318.6 feet; thence S 89 degrees, 11 minutes W 288.28 feet to the east right of way line of the old Paisley/Lakeview Highway; thence S 21 degrees, 53 minutes E along the eastern right of way of the old Paisley/Lakeview Highway 288.4 feet; thence S 78 degrees, 45 minutes W 1375 feet; thence S 3 degrees, 6 minutes, and 30 seconds W 200 feet; thence S 77 degrees, 45 minutes W 136 feet to the east right of way line of U.S. Highway 395; thence southeasterly along the east right of way line of U.S. Highway 395 53.5 feet; thence N 77 degrees, 45 minutes E 195.6 feet; thence S 38 degrees, 45 minutes E 56.8 feet; thence S 51 degrees, 15 minutes W 186.1 feet to the east right of way of U.S. Highway 395; thence southeast along the eastern right of way line of U.S. Highway 395 2310 feet; thence N 76 degrees, 19 minutes 544.7 feet; thence S 13 degrees, 23 minutes, 21 seconds E 400 feet; thence N 63 degrees, 13 minutes E 243.6 feet to the western line of the old American Forest Products Logging Road; thence southeast along the old American Forest Products Logging Road to the western line of the northeast quadrant of the northwest quadrant of section 10, T39S, R20E; thence southeast to a point on the south line of the northeast quadrant of the northwest quadrant of Section 10, T39S, R20E (this point also bears N 89 degrees, 33 minutes E 230 feet from the center line of U.S. Highway 395); thence south on a line parallel to the east right of way line of U.S. Highway 395 to the south line of the northwest quadrant of section 10, T39S, R20E; thence south 491 feet to the east right of way of U.S. Highway 395; thence southeasterly following the east right of way of U.S. Highway 395 255 feet to the south line of the northeast quadrant of the northeast quadrant of the southwest quadrant of section 10, T39S, R20E; thence east along that south line to the center line of section 10, T39S, R20E; thence continuing east along the same south line to the eastern boundary of section 10, T39S, R20E; thence south along the eastern boundary of section 10 to the section corner common to sections 10, 11, 14, and 15, T39S, R20E; thence south along the section line between section 14 and 15 to the section corner common to sections 14, 15, 22, and 23, T39S, R20E; thence west along the section line between sections 15 and 22 to the northwest corner of the northeast quadrant of the northeast quadrant of section 22, T39S, R20E; thence south along the eastern line of the western half of the eastern half of section 22 to the southern boundary of section 22, T39S, R20E; thence west along the southern boundary of section 22 to the point of beginning.

(10) “Medford-Ashland Air Quality Maintenance Area” (AQMA) means the area defined as beginning at a point approximately two and quarter miles northeast of the town of Eagle Point,

Jackson County, Oregon at the northeast corner of Section 36, Township 35 South, Range 1 West (T35S, R1W); thence South along the Willamette Meridian to the southeast corner of Section 25, T37S, R1W; thence southeast along a line to the southeast corner of Section 9, T39S, R2E; thence south-southeast along line to the southeast corner of Section 22, T39S, R2E; thence South to the southeast corner of Section 27, T39S, R2E; thence southwest along a line to the southeast corner of Section 33, T39S, R2E; thence West to the southwest corner of Section 31, T39S, R2E; thence northwest along a line to the northwest corner of Section 36, T39S, R1E; thence West to the southwest corner of Section 26, T39S, R1E; thence northwest along a line to the southeast corner of Section 7, T39S, R1E; thence West to the southwest corner of Section 12, T39S, R1W, T39S, R1W; thence northwest along a line to southwest corner of Section 20, T38S, R1W; thence West to the southwest corner of Section 24, T38S, R2W; thence northwest along a line to the southwest corner of Section 4, T38S, R2W; thence West to the southwest corner of Section 6, T38S, R2W; thence northwest along a line to the southwest corner of Section 31, T37S, R2W; thence North and East along the Rogue River to the north boundary of Section 32, T35S, R1W; thence East along a line to the point of beginning.

(11) “Medford-Ashland CBD” means the area beginning at the intersection of Crater Lake Highway (Highway 62) south on Biddle Road to the intersection of Fourth Street, west on Fourth Street to the intersection with Riverside Avenue (Highway 99), south on Riverside Avenue to the intersection with Tenth Street, west on Tenth Street to the intersection with Oakdale Avenue, north on Oakdale Avenue to the intersection with Fourth Street, east on Fourth Street to the intersection with Central Avenue, north on Central Avenue to the intersection with Court Street, north on Court Street to the intersection with Crater Lake Highway (Highway 62) and east on Crater Lake Highway to the point of beginning, with extensions along McAndrews Road east from Biddle Road to Crater Lake Avenue, and along Jackson Street east from Biddle Road to Crater Lake Avenue.

**NOTE:** This definition also marks the area where indirect sources are required to have indirect source construction permits in the Medford area. See OAR 340-254-0040.

(12) “Medford UGB” means the area beginning at the line separating Range 1 West and Range 2 West at a point approximately 1/4 mile south of the northwest corner of Section 31, T36S, R1W; thence west approximately 1/2 mile; thence south to the north bank of Bear Creek; thence west to the south bank of Bear Creek; thence south to the intersection with the Medford Corporate Boundary; thence following the Medford Corporate Boundary west and southwesterly to the intersection with Merriman Road; thence northwesterly along Merriman Road to the intersection with the eastern boundary of Section 10, T36S, R2W; thence south along said boundary line approximately 3/4 mile; thence west approximately 1/3 mile; thence south to the intersection with the Hopkins Canal; thence east along the Hopkins Canal approximately 200 feet; thence south to Rossanely Drive; thence east along Rossanely Drive approximately 200 feet; thence south approximately 1200 feet; thence west approximately 700 feet; thence south approximately 1400 feet; thence east approximately 1400 feet; thence north approximately 100 feet; thence east

approximately 700 feet; thence south to Finley Lane; thence west to the end of Finley Lane; thence approximately 1200 feet; thence west approximately 1300 feet; thence north approximately 150 feet; thence west approximately 500 feet; thence south to Highway 238; thence west along Highway 238 approximately 250 feet; thence south approximately 1250 feet to a point even with the end of Renault Avenue to the east; thence east approximately 2200 feet; thence south approximately 1100 feet to a point even with Sunset Court to the east; thence east to and along Sunset Court to the first (nameless) road to the south; thence approximately 850 feet; thence west approximately 600 feet; thence south to Stewart Avenue; thence west along Stewart Avenue approximately 750 feet; thence south approximately 1100 feet; thence west approximately 100 feet; thence south approximately 800 feet; thence east approximately 800 feet; thence south approximately 1000 feet; thence west approximately 350 feet to a point even with the north-south connector street between Sunset Drive and South Stage Road; thence south to and along said connecting road and continuing along South Stage Road to Fairlane Road; thence south to the end of Fairlane Road and extending beyond it approximately 250 feet; thence east approximately 250 feet; thence south approximately 250 feet to the intersection with Judy Way; thence east on Judy Way to Griffin Creek Road; thence north on Griffin Creek Road to South Stage Road; thence east on South Stage Road to Orchard Home Drive; thence north on Orchard Home Drive approximately 800 feet; thence east to Columbus Avenue; thence south along Columbus Avenue to South Stage Road; thence east along South Stage Road to the first road to the north after Sunnyview Lane; thence north approximately 300 feet; thence east approximately 300 feet; thence north approximately 700 feet; thence east to King's Highway; thence north along King's Highway to Experiment Station Road; thence east along Experiment Station Road to Marsh Lane; thence east along Marsh Lane to the northern boundary of Section 6, T38S, R1W; thence east along said boundary approximately 1100 feet; thence north approximately 1200 feet; thence east approximately 1/3 mile; thence north approximately 400 feet; thence east approximately 1000 feet to a drainage ditch; thence following the drainage ditch southeasterly approximately 500 feet; thence east to the eastern boundary of Section 31, T37S, R1W; thence south along said boundary approximately 1900 feet; thence east to and along the loop off of Rogue Valley Boulevard, following that loop to the Southern Pacific Railroad Line (SPRR); thence following SPRR approximately 500 feet; thence south to South Stage Road; thence east along South Stage Road to SPRR; thence southeasterly along SPRR to the intersection with the west fork of Bear Creek; thence northeasterly along the west fork of Bear Creek to the intersection with U.S. Highway 99; thence southeasterly along U.S. Highway 99 approximately 250 feet; thence east approximately 1600 feet; thence south to East Glenwood Road; thence east along East Glenwood Road approximately 1250 feet; thence north approximately 1/2 mile; thence west approximately 250 feet; thence north approximately 1/2 mile to the Medford City Limits; thence east along the city limits to Phoenix Road; thence south along Phoenix Road to Coal Mine Road; thence east along Coal Mine Road approximately 9/10 mile to the western boundary of Section 35, T37S, R1W; thence north to the midpoint of the western boundary of Section 35, T37S, R1W; thence west approximately 800 feet; thence north

approximately 1700 feet to the intersection with Barnett Road; thence easterly along Barnett Road to the southeast corner of Section 27, T37S, R1W; thence north along the eastern boundary line of said section approximately 1/2 mile to the intersection with the 1800 foot contour line; thence east to the intersection with Cherry Lane; thence following Cherry Lane southeasterly and then northerly to the intersection with Hillcrest Road; thence east along Hillcrest Road to the southeast corner of Section 23, T37S, R1W; thence north to the northeast corner of Section 23, T37S, R1W; thence west to the midpoint of the northern boundary of Section 22; T37S, R1W; thence north to the midpoint of Section 15, T37S, R1W; thence west to the midpoint of the western boundary of Section 15, T37S, R1W; thence south along said boundary approximately 600 feet; thence west approximately 1200 feet; thence north approximately 600 feet; thence west to Foothill Road; thence north along Foothill Road to a point approximately 500 feet north of Butte Road; thence west approximately 300 feet; thence south approximately 250 feet; thence west on a line parallel to and approximately 250 feet north of Butte Road to the eastern boundary of Section 8, T37S, R1W; thence north approximately 2200 feet; thence west approximately 1800 feet; thence north approximately 2000 feet; thence west approximately 500 feet; thence north to Coker Butte Road; thence east along Coker Butte Road approximately 550 feet; thence north approximately 1250 feet; thence west to U.S. Highway 62; thence north approximately 3000 feet; thence east approximately 400 feet to the 1340 foot contour line; thence north approximately 800 feet; thence west approximately 200 feet; thence north approximately 250 feet to East Vilas Road; thence east along East Vilas Road approximately 450 feet; thence north approximately 2000 feet to a point approximately 150 feet north of Swanson Creek; thence east approximately 600 feet; thence north approximately 850 feet; thence west approximately 750 feet; thence north approximately 650 feet; thence west approximately 2100 feet; thence on a line southeast approximately 600 feet; thence east approximately 450 feet; thence south approximately 1600 feet; thence west approximately 2000 feet to the continuance of the private logging road north of East Vilas Road; thence south along said logging road approximately 850 feet; thence west approximately 750 feet; thence south approximately 150 feet; thence west approximately 550 feet to Peace Lane; thence north along Peace Lane approximately 100 feet; thence west approximately 350 feet; thence north approximately 950 feet; thence west approximately 1000 feet to the western boundary of Section 31, T36S, R1W; thence north approximately 1300 feet along said boundary to the point of beginning.

(13) "Oakridge UGB" means the area enclosed by the following: Beginning at the northwest corner of Section 17, T21S, R3E and the city limits; thence south along the western boundary of Section 17, T21S, R3E along the city limits approximately 800 feet; thence southwesterly following the city limits approximately 750 feet; thence west along the city limits approximately 450 feet; thence northwesterly along the city limits approximately 450 feet; thence on a line south along the city limits approximately 250 feet; thence on a line east along the city limits approximately 100 feet; thence southwesterly along the city limits approximately 200 feet; thence on a line east along the city limits approximately 400 feet; thence on a line south along the city limits to the channel of the Willamette River Middle Fork; thence south-easterly up the

Willamette River Middle Fork along the city limits approximately 7200 feet; thence exiting the Willamette River Middle Fork with the city limits in a northerly manner and forming a rough semicircle with a diameter of approximately one-half mile before rejoining the Willamette River Middle Fork; thence diverging from the city limits upon rejoining the Willamette River Middle Fork and moving southeasterly approximately 5600 feet up the Willamette River Middle Fork to a point on the river even with the point where Salmon Creek Road intersects with U.S. Highway 58; thence on a line east from the channel of the Willamette River Middle Fork across the intersection of Salmon Creek Road and U.S. Highway 58 to the intersection with the Southern Pacific Railroad Line; thence northerly along the Southern Pacific Railroad Line to the intersection with the northern boundary of Section 22, T21S, R3E; thence west along the northern boundary of Section 22, T21S, R3E to the intersection with Salmon Creek Road; thence on a line north to the intersection with the Southern Pacific Railroad Line; thence east along the Southern Pacific Railroad Line approximately 600 feet; thence on a line north to the intersection with High Prairie Road; thence on a line west approximately 400 feet; thence on a line north to the intersection with the northern boundary of Section 15, T21S, R3E; thence west along the northern boundary of Section 15, T21S, R3E to the intersection with the southeastern corner of Section 9, T21S, R3E; thence north along the eastern boundary of Section 9, T21S, R3E approximately 1300 feet; thence on a line west approximately 1100 feet; thence on a line south to the intersection with West Oak Road; thence northwesterly along West Oak Road approximately 2000 feet; thence on a line south to the intersection with the northern boundary line of the city limits; thence westerly and northwesterly approximately 8000 feet along the city limits to the point of beginning.

(14) “Portland AQMA” means the area within the bounds beginning at the point starting on the Oregon-Washington state line in the Columbia River at the confluence with the Willamette River, thence east up the Columbia River to the confluence with the Sandy River, thence southerly and easterly up the Sandy River to the point where the Sandy River intersects the Clackamas County-Multnomah County line, thence west along the Clackamas County-Multnomah County line to the point where the Clackamas County-Multnomah County line is intersected by H. Johnson Road (242nd), thence south along H. Johnson Road to the intersection with Kelso Road (Boring Highway), thence west along Kelso Road to the intersection with Deep Creek Road (232nd), thence south along Deep Creek Road to the point of intersection with Deep Creek, thence southeasterly along Deep Creek to the confluence with Clackamas River, thence easterly along the Clackamas River to the confluence with Clear Creek, thence southerly along Clear Creek to the point where Clear Creek intersects Springwater Road then to Forsythe Road, thence easterly along Forsythe Road to the intersection with Bradley Road, thence south along Bradley Road to the intersection with Redland Road, thence west along Redland Road to the intersection with Ferguson Road, thence south along Ferguson Road to the intersection with Thayler Road, thence west along Thayler Road to the intersection with Beaver Creek Road, thence southeast along Beaver Creek Road to the intersection with Henrici Road, thence west along Henrici Road to the intersection with State Highway 213 (Mollala Avenue), thence



southeast along State Highway 213 to the point of intersection with Beaver Creek, thence westerly down Beaver Creek to the confluence with the Willamette River, thence southerly and westerly up the Willamette River to the point where the Willamette River intersects the Clackamas County-Yamhill County line, thence north along the Clackamas County-Yamhill County line to the point where it intersects the Washington County-Yamhill County line, thence west and north along the Washington County-Yamhill County line to the point where it is intersected by Mount Richmond Road, thence northeast along Mount Richmond Road to the intersection with Patton Valley Road, thence easterly and northerly along Patton Valley Road to the intersection with Tualatin Valley State Highway, thence northerly along Tualatin Valley State Highway to the intersection with State Highway 47, thence northerly along State Highway 47 to the intersection with Dilley Road, thence northwesterly and northerly along Dilley Road to the intersection with Stringtown Road, thence westerly and northwesterly along Stringtown Road to the intersection with Gales Creek Road, thence northwesterly along Gales Creek Road to the intersection with Timmerman Road, thence northerly along Timmerman Road to the intersection with Wilson River Highway, thence west and southwesterly along Wilson River Highway to the intersection with Narup Road, thence north along Narup Road to the intersection with Cedar Canyon Road, thence westerly and northerly along Cedar Canyon Road to the intersection with Banks Road, thence west along Banks Road to the intersection with Hahn Road, thence northerly and westerly along Hahn Road to the intersection with Mountindale Road, thence southeasterly along Mountindale Road to the intersection with Glencoe Road, thence east-southeasterly along Glencoe Road to the intersection with Jackson Quarry Road, thence north-northeasterly along Jackson Quarry Road to the intersection with Helvetia Road, thence easterly and southerly along Helvetia Road to the intersection with Bishop Road, thence southerly along Bishop Road to the intersection with Phillips Road, thence easterly along Phillips Road to the intersection with the Burlington Northern Railroad Track, thence northeasterly along the Burlington Northern Railroad Line to the intersection with Rock Creek Road, thence east-southeasterly along Rock Creek Road to the intersection with Old Cornelius Pass Road, thence northeasterly along Old Cornelius Pass Road to the intersection with Skyline Boulevard, thence easterly and southerly along Skyline Boulevard to the intersection with Newberry Road, thence northeasterly along Newberry Road to the intersection with State Highway 30 (St. Helens Road), thence northeast on a line over land across State Highway 30 to the Multnomah Channel, thence east-southeasterly up the Multnomah Channel to the diffuence with the Willamette River, thence north-northeasterly down the Willamette River to the confluence with the Columbia River and the Oregon-Washington state line (the point of beginning).

(15) “Portland metropolitan service district boundary” or “Portland Metro” means the boundary surrounding the urban growth boundaries of the cities within the Greater Portland Metropolitan Area. It is defined in the Oregon Revised Statutes (ORS) 268.125 (1989).

(16) “Portland vehicle inspection area” means the area of the state included within the following census tracts, block groups, and blocks as used in the 1990 Federal Census. In Multnomah

County, the following tracts, block groups, and blocks are included: Tracts 1, 2, 3.01, 3.02, 4.01, 4.02, 5.01, 5.02, 6.01, 6.02, 7.01, 7.02, 8.01, 8.02, 9.01, 9.02, 10, 11.01, 11.02, 12.01, 12.02, 13.01, 13.02, 14, 15, 16.01, 16.02, 17.01, 17.02, 18.01, 18.02, 19, 20, 21, 22.01, 22.02, 23.01, 23.02, 24.01, 24.02, 25.01, 25.02, 26, 27.01, 27.02, 28.01, 28.02, 29.01, 29.02, 29.03, 30, 31, 32, 33.01, 33.02, 34.01, 34.02, 35.01, 35.02, 36.01, 36.02, 36.03, 37.01, 37.02, 38.01, 38.02, 38.03, 39.01, 39.02, 40.01, 40.02, 41.01, 41.02, 42, 43, 44, 45, 46.01, 46.02, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 57, 58, 59, 60.01, 60.02, 61, 62, 63, 64.01, 64.02, 65.01, 65.02, 66.01, 66.02, 67.01, 67.02, 68.01, 68.02, 69, 70, 71, 72.01, 72.02, 73, 74, 75, 76, 77, 78, 79, 80.01, 80.02, 81, 82.01, 82.02, 83.01, 83.02, 84, 85, 86, 87, 88, 89, 90, 91, 92.01, 92.02, 93, 94, 95, 96.01, 96.02, 97.01, 97.02, 98.01, 98.02, 99.01, 99.02, 99.03, 100, 101, 102, 103.01, 103.02, 104.02, 104.04, 104.05, 104.06, 104.07; Block Groups 1, 2 of Tract 105; Blocks 360, 361, 362 of Tract 105; that portion of Blocks 357, 399 of Tract 105 beginning at the intersection of the Oregon-Washington State Line (“State Line”) and the northeast corner of Block Group 1 of Tract 105, thence east along the State Line to the intersection of the State Line and the eastern edge of Section 26, Township 1 North, Range 4 East, thence south along the section line to the centerline of State Highway 100 to the intersection of State Highway 100 and the western edge of Block Group 2 of Tract 105. In Clackamas County, the following tracts, block groups, and blocks are included: Tracts 201, 202, 203.01, 203.02, 204.01, 204.02, 205.01, 205.02, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216.01, 216.02, 217, 218, 219, 220, 221.01, 221.02, 222.02, 223, 224, 225, 226, 227.01, 227.02, 228, 229, 230, 231, 232, 233, 234.01, 234.02, 235, 236, 237; Block Groups 1, 2 of Tract 241; Block Groups 1, 2, 3, 4 of Tract 242; Block Groups 1, 2 of Tract 243.02. In Yamhill County, the following tract is included: Tract 301, except those areas in Tract 301 that lie within the Newberg City Limits defined as of July 12, 1996, and the following blocks within Tract 301: 102B, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121D, 122B, 122C, 123, 126, and 127B. In Washington County the following tracts, block groups, and blocks are included: Tracts 301, 302, 303, 304.01, 304.02, 305.01, 305.02, 306, 307, 308.01, 308.02, 309, 310.03, 310.04, 310.05, 310.06, 311, 312, 313, 314.01, 314.02, 315.01, 315.04, 315.05, 315.06, 315.07, 315.08, 316.03, 316.04, 316.05, 316.06, 316.07, 317.02, 317.03, 317.04, 318.01, 318.02, 318.03, 319.01, 319.03, 319.04, 320, 321.01, 321.02, 322, 323, 324.02, 324.03, 324.04, 325, 326.01, 326.02, 328, 329, 330, 331, 332, 333; Block Groups 1, 2 of Tract 327; Block Group 1 of Tract 334; Block Group 2 of Tract 335; Block Group 1 of Tract 336. In Columbia County the following tracts, block groups, and blocks are included: Tract 9710.98; Block Groups 2, 3 of Tract 9709.98; Blocks 146B, 148, 152 of Tract 9709.98.

(17) “Rogue Basin” means the area bounded by the following line: Beginning at the NE corner of T32S, R2E, W.M., thence south along range line 2E to the SE corner of T39S; thence west along township line 39S to the NE corner of T40S, R7W; thence south to the SE corner of T40S, R7W; thence west to the SE corner of T40S, R9W; thence north on range line 9W to the NE corner of T39S, R9W; thence east to the NE corner of T39S, R8W; thence north on range line 8W to the SE corner of Section 1, T33S, R8W on the Josephine-Douglas County line; thence east

on the Josephine-Douglas and Jackson-Douglas County lines to the NE corner of T32S, R1W; thence east along township line 32S to the NE corner of T32S, R2E to the point of beginning.

(18) “Salem-Keizer Area Transportation Study” or “SKATS” means the area within the bounds beginning at the intersection of U.S. Interstate Highway 5 (I-5) with Battle Creek Road SE and Wiltsey Road, south along I-5 to the intersection with the western boundary of Section 24, T8S, R3W; thence due south on a line to the intersection with Delaney Road; thence easterly along Delaney Road to the intersection with Sunnyside Road; thence north along Sunnyside Road to the intersection with Hylo Road SE; thence west along Hylo Road SE to the intersection with Liberty Road; thence north along Liberty Road to the intersection with Cole Road; thence west along Cole Road to the intersection with Bates Road; thence northerly and easterly along Bates Road to the intersection with Jory Hill Road; thence west along Jory Hill Road to the intersection with Stone Hill Avenue; thence north along Stone Hill Avenue to the intersection with Vita Springs Road; thence westerly along Vita Springs Road to the Willamette River; thence northeasterly downstream the Willamette River to a point adjacent to where the western boundary of Section 30, T7S, R3W intersects the Southern Pacific Railroad Line; thence westerly along the Southern Pacific Railroad Line to the intersection with State Highway 51; thence northeasterly along State Highway 51 to the intersection with Oak Grove Road; thence northerly along Oak Grove Road to the intersection with State Highway 22; thence west on State Highway 22 to the intersection with Oak Grove Road; thence north along Oak Grove Road to the intersection with Orchard Heights Road; thence east and north along Orchard Heights Road to the intersection with Eagle Crest Drive; thence northerly along Eagle Crest Drive to the intersection with Hunt Road; thence north along Hunt Road to the intersection with Fourth Road; thence east along Fourth Road to the intersection with Spring Valley Road; thence north along Spring Valley to the intersection with Oak Knoll Road; thence east along Oak Knoll Road to the intersection with Wallace Road; thence south along Wallace Road to the intersection with Lincoln Road; thence east along Lincoln Road on a line to the intersection with the Willamette River; thence northeasterly downstream the Willamette River to a point adjacent to where Simon Street starts on the East Bank; thence east and south along Simon Street to the intersection with Salmon; thence east along Salmon to the intersection with Ravena Drive; thence southerly and easterly along Ravena Drive to the intersection with Wheatland Road; thence northerly along Wheatland Road to the intersection with Brooklake Road; thence southeast along Brooklake Road to the intersection with 65th Avenue; thence south along 65th Avenue to the intersection with Labish Road; thence east along Labish Road to the intersection with the West Branch of the Little Pudding River; thence southerly along the West Branch of the Little Pudding River to the intersection with Sunnyview Road; thence east along Sunnyview Road to the intersection with 63rd Avenue; thence south along 63rd Avenue to the intersection with State Street; thence east along State Street to the intersection with 62nd Avenue; thence south along 62nd Avenue to the intersection with Deer Park Drive; thence southwest along Deer Park Drive to the intersection with Santiam Highway 22; thence southeast along Santiam Highway 22 to the point where it intersects the Salem Urban Growth Boundary (SUGB); thence following the southeast boundary

of the SUGB generally southerly and westerly to the intersection with Wiltsey Road; thence west along Wiltsey Road to the intersection with I-5 (the point of beginning).

(19) “Umpqua Basin” means the area bounded by the following line: Beginning at the SW corner of Section 2, T19S, R9W, on the Douglas-Lane County lines and extending due south to the SW corner of Section 14, T32S, R9W, on the Douglas-Curry County lines, thence easterly on the Douglas-Curry and Douglas-Josephine County lines to the intersection of the Douglas, Josephine, and Jackson County lines; thence easterly on the Douglas-Jackson County line to the intersection of the Umpqua National Forest boundary on the NW corner of Section 32, T32S, R3W; thence northerly on the Umpqua National Forest boundary to the NE corner of Section 36, T25S, R2W; thence west to the NW corner of Section 36, T25S, R4W; thence north to the Douglas-Lane County line; thence westerly on the Douglas-Lane County line to the starting point.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-204-0020 Designation of Air Quality Control Regions**

Oregon’s thirty-six counties are divided into five AQCRs. The AQCR boundaries follow county lines, and there are no counties that belong to more than one AQCR. The five AQCRs are as follows:

(1) Portland Interstate AQCR, containing ten counties:

(a) Benton County;

(b) Clackamas County;

(c) Columbia County;

(d) Lane County;

(e) Linn County;

(f) Marion County;

(g) Multnomah County;

(h) Polk County;

(i) Washington County;

(j) Yamhill County.

(2) Northwest Oregon AQCR, containing three counties:

(a) Clatsop County;

(b) Lincoln County;

(c) Tillamook County.

(3) Southwest Oregon AQCR, containing five counties:

(a) Coos County;

(b) Curry County;

(c) Douglas County;

(d) Jackson County;

(e) Josephine County.

(4) Central Oregon AQCR, containing eight counties:

(a) Crook County;

(b) Deschutes County;

(c) Hood River County;

(d) Jefferson County;

(e) Klamath County;

(f) Lake County;

(g) Sherman County;

(h) Wasco County.

(5) Eastern Oregon AQCR, containing ten counties:

- (a) Baker County;
- (b) Gilliam County;
- (c) Grant County;
- (d) Harney County;
- (e) Malheur County;
- (f) Morrow County;
- (g) Umatilla County;
- (h) Union County;
- (i) Wallowa County;
- (j) Wheeler County.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-204-0030 Designation of Nonattainment Areas**

The following areas are designated as Particulate Matter Nonattainment Areas:

- (1) The Oakridge Nonattainment Area for PM<sub>10</sub> is the Oakridge UGB as defined in OAR 340-204-0010.
- 2) The Klamath Falls Nonattainment Area defined in OAR 340-204-0010.
- (3) The Oakridge Nonattainment Area for PM<sub>2.5</sub> is defined as a line from Township 21 South, Range 2 East, Section 11 (northwest corner), east to Township 21 South, Range 3 East, Section 11 (northeast corner), south to Township 21 South, Range 3 East, Section 23 (southeast corner), west to Township 21 South, Range 2 East, Section 23 (southwest corner) connecting back to Township 21 South, Range 2 East, Section 11 (northwest corner).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-204-0040 Designation of Maintenance Areas**

The following areas are designated as Maintenance Areas:

- (1) Carbon Monoxide Maintenance Areas:

- (a) The Eugene Maintenance Area for carbon monoxide is the Eugene-Springfield AQMA as defined in OAR 340-204-0010;
- (b) The Portland Maintenance Area for carbon monoxide is the Portland Metropolitan Service District as referenced in OAR 340-204-0010;
- (c) The Medford Maintenance Area for carbon monoxide is the Medford UGB as defined in OAR 340-204-0010;
- (d) The Grants Pass Maintenance Area for carbon monoxide is the Grants Pass CBD as defined in OAR 340-204-0010;
- (e) The Klamath Falls Maintenance Area for carbon monoxide is the Klamath Falls UGB as defined in OAR 340-204-0010;
- (f) The Salem Maintenance Area for carbon monoxide is the Salem-Keizer Area Transportation Study as defined in OAR 340-204-0010.

(2) Ozone Maintenance Areas:

- (a) The Medford Maintenance Area for ozone is the Medford-Ashland AQMA as defined in OAR 340-204-0010;
- (b) The Oregon portion of the Portland-Vancouver Interstate Maintenance Area for ozone is the Portland AQMA, as defined in OAR 340-204-0010;
- (c) The Salem Maintenance Area for ozone is the Salem-Keizer Area Transportation Study as defined in OAR 340-204-0010.

(3) PM10 Maintenance Areas:

- (a) The Grants Pass Maintenance Area for PM10 is the Grants Pass UGB as defined in OAR 340-204-0010;
- (b) The Klamath Falls Maintenance Area for PM10 is the Klamath Falls UGB as defined in OAR 340-204-0010;
- (c) The Medford-Ashland Maintenance Area for PM10 is the Medford-Ashland AQMA as defined in OAR 340-204-0010;
- (d) The La Grande Maintenance Area for PM10 is the La Grande UGB as defined in OAR 340-204-0010;
- (e) The Lakeview Maintenance Area for PM10 is the Lakeview UGB as defined in OAR 340-204-0010.

(f) The Eugene-Springfield Maintenance Area for PM10 is the Eugene-Springfield UGB as defined in OAR 340-204-0010.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-204-0050 Designation of Prevention of Significant Deterioration Areas**

(1) All of the following areas which were in existence on August 7, 1977, and for which the 1990 Clean Air Act Amendments clarified, shall be Class I Areas and may not be redesignated:

- (a) Mt. Hood Wilderness, as established by Public Law 88-577;
- (b) Eagle Cap Wilderness, as established by Public Law 88-577;
- (c) Hells Canyon Wilderness, as established by Public Law 94-199;
- (d) Mt. Jefferson Wilderness, as established by Public Law 90-548;
- (e) Mt. Washington Wilderness, as established by Public Law 88-577;
- (f) Three Sisters Wilderness, as established by Public Law 88-577;
- (g) Strawberry Mountain Wilderness, as established by Public Law 88-577;
- (h) Diamond Peak Wilderness, as established by Public Law 88-577;
- (i) Crater Lake National Park, as established by Public Law 32-202;
- (j) Kalmiopsis Wilderness, as established by Public Law 88-577;
- (k) Mountain Lake Wilderness, as established by Public Law 88-577;
- (l) Gearhart Mountain Wilderness, as established by Public Law 88-577.

(2) All other areas, in Oregon are initially designated Class II, but may be redesignated as provided in OAR 340-204-0060.

(3) The following areas may be redesignated only as Class I or II:

- (a) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and
- (b) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

(4) The extent of the areas referred to in section (1) and (3) shall conform to any changes in the boundaries of such areas which occurred between August 7, 1977, and April 16, 2015.



### **340-204-0060 Redesignation of Prevention of Significant Deterioration Areas**

- (1)(a) All areas in Oregon, except as otherwise provided under OAR 340-204-0050, are designated Class II as of December 5, 1974;
- (b) Redesignation, except as otherwise precluded by OAR 340-204-0050, may be proposed by DEQ, as provided below, subject to approval by the EPA Administrator as a revision to the SIP.
- (2) DEQ may submit to the EPA Administrator a proposal to redesignate areas of the state Class I or II provided that:
- (a) At least one public hearing has been held in accordance with procedures established in the SIP;
- (b) Other states, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;
- (c) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;
- (d) Prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, DEQ has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity, not in excess of 60 days to confer with DEQ respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, DEQ must have published a list of any inconsistency between such redesignation and such comments and recommendations together with the reasons for making such redesignation against the recommendation of the Federal Land Manager; and
- (e) DEQ has proposed the redesignation after consultation with the elected leadership of local general purpose governments in the area covered by the proposed redesignation.
- (3) Any area other than an area to which OAR 340-204-0050 refers may be redesignated as Class III if:
- (a) The redesignation would meet the requirements of section (2);
- (b) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor, after consultation with the appropriate committees of the

legislature, if it is in session, or with the leadership of the legislature, if it is not in session, unless state law provides that the redesignation must be specifically approved by state legislation, and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

(c) The redesignation would not cause, or contribute to, a concentration of any regulated pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any ambient air quality standard; and

(d) Any permit application for any major stationary source or major modification, subject to review under section (1), which could receive a permit under this section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

(b) Such redesignation is

(5) The EPA Administrator may disapprove, within 90 days of submission, a proposed redesignation of any area only if he finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this paragraph or is inconsistent with OAR 340-204-0050. If any such disapproval occurs, the classification of the area must be that which was in effect prior to the redesignation which was disapproved.

(6) If the EPA Administrator disapproves any proposed redesignation, DEQ may resubmit the proposal after correcting the deficiencies noted by the EPA Administrator.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-204-0070 Special Control Areas**

The following areas are designated as Special Control Areas:

(1) The counties within the Willamette Valley, including Benton, Clackamas, Columbia, Lane, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties;

(2) Umpqua Basin;

(3) Rogue Basin;

(4) Within incorporated cities having a population of 4,000 or more, and within three miles of the corporate limits of any such city.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-204-0080 Motor Vehicle Inspection Boundary Designations**

In addition to the area specified in ORS 815.300, pursuant to ORS 468A.390, the following geographical areas are designated as areas within which motor vehicles are subject to the requirement under ORS 815.300 to have a Certificate of Compliance issued pursuant to ORS 468A.380 to be registered or have the registration of the vehicle renewed.

(1) Portland Vehicle Inspection Area;

(2) Medford-Ashland AQMA.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-204-0090 Oxygenated Gasoline Control Areas**

The EQC may adopt or amend a CO maintenance plan that includes contingency plan provisions that require use of oxygenated fuel.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DESIGNATION OF 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 PM<sub>2.5</sub>.

(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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **OAR 340-204-0320 Priority Sources**

For the purposes of division 224, priority sources are identified as follows:

(1) In the Lakeview sustainment area, uncertified residential wood fuel-fired devices. The offset values for replacement of uncertified residential wood fuel-fired devices are specified in OAR 340-240-0560.

(2) In any other area, DEQ may identify priority sources during a specific permit action based on the sources addressed in the emission reduction strategies that were included in the attainment or maintenance plans for the area. The offset value for priority sources identified under this section must be determined by DEQ. The offset values for replacement of uncertified residential wood fuel-fired devices in OAR 340-240-0560 may only be used if DEQ determines that the values reasonably apply to the geographical area in question.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **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 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 (SO<sub>2</sub>) - 1.0 ppm, 24-hour average.

(2) For particulate matter

(a) PM<sub>10</sub> - 600 micrograms per cubic meter, 24-hour average.

(b) PM<sub>2.5</sub> – 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 (O<sub>3</sub>) - 0.6 ppm, 2-hour average.
- (5) For nitrogen dioxide (NO<sub>2</sub>):
  - (a) 2.0 ppm, 1-hour average.
  - (b) 0.5 ppm, 24-hour average.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-206-0020 Definitions**

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

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-206-0030 Episode Stage Criteria For Air Pollution Emergencies**

Three stages of air pollution episode conditions and a pre-episode standby condition are established to inform the public of the general air pollution status and provide a management structure to require preplanned actions designed to prevent continued accumulation of regulated pollutants to the level of significant harm. The three episode stages are: Alert, Warning, and Emergency. DEQ is responsible to enforce the provisions of this division which requires actions to reduce and control emissions during air pollution episode conditions. An air pollution alert or air pollution warning must be declared by the Director or appointed representative when the appropriate air pollution conditions are deemed to exist. When conditions exist which are appropriate to an air pollution emergency, DEQ must notify the Governor and declare an air pollution emergency pursuant to ORS 468.115. The statement declaring an air pollution Alert, Warning or Emergency must define the area affected by the air pollution episode where corrective actions are required. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever DEQ determines that the accumulation of air contaminants in any place is increasing or has increased to levels which could, if such increases are sustained or exceeded, lead to a threat to the health of the public. In making this determination, DEQ will be guided by the following criteria for each regulated pollutant and episode stage:

(1) “Pre-episode standby” condition, indicates that ambient levels of air pollutants are within standards or only moderately exceed standards. In this condition, there is no imminent danger of any ambient pollutant concentrations reaching levels of significant harm. DEQ must maintain at least a normal monitoring schedule but may conduct additional monitoring. An air stagnation advisory issued by the National Weather Service, an equivalent local forecast of air stagnation or observed ambient air levels in excess of ambient air standards may be used to indicate the need for increased sampling frequency. The pre-episode standby condition is the lowest possible air pollution episode condition and may not be terminated.

(2) “Air pollution alert” condition indicates that air pollution levels are significantly above standards but there is no immediate danger of reaching the level of significant harm. Monitoring must be intensified and readiness to implement abatement actions must be reviewed. At the air pollution alert level the public is to be kept informed of the air pollution conditions and of potential activities to be curtailed should it be necessary to declare a warning or higher condition. An air pollution alert condition is a state of readiness. When the conditions in both subsections (a) and (b) are met, an air pollution alert will be declared and all appropriate actions described in OAR 340-206-8010 and 340-206-8040 must be implemented:

(a) Meteorological dispersion conditions are not expected to improve during the next 24 or more hours;

(b) Monitored pollutant levels at any monitoring site exceed any of the following:

(A) Sulfur dioxide — 0.3 ppm — 24-hour average;

(B) Particulate matter

(i) PM<sub>10</sub> - 350 micrograms per cubic meter (µg/m<sup>3</sup>) — 24-hour average;

(ii) PM<sub>2.5</sub> - 140.5 micrograms per cubic meter (µg/m<sup>3</sup>) — 24-hour average;

(C) Carbon monoxide — 15 ppm — 8-hour average;

(D) Ozone — 0.2 ppm — 1-hour average;

(E) Nitrogen dioxide:

(i) 0.6 ppm — 1-hour average; or

(ii) 0.15 ppm — 24-hour average.

(3) Air pollution warning” condition indicates that pollution levels are very high and that abatement actions are necessary to prevent these levels from approaching the level of significant harm. At the air pollution warning level substantial restrictions may be required limiting motor vehicle use and industrial and commercial activities. When the conditions in both subsections (a) and (b) are met, an Air Pollution Warning will be declared by DEQ and all appropriate actions described in OAR 340-206-8020 and OAR 340-206-8040 must be implemented:

(a) Meteorological dispersion conditions are not expected to improve during the next 24 or more hours;

(b) Monitored regulated pollutant levels at any monitoring site exceed any of the following:

(A) Sulfur dioxide — 0.6 ppm — 24-hour average;

(B) Particulate matter

(i)  $PM_{10}$  -- 420  $\mu\text{g}/\text{m}^3$  -- 24- hour average;

(ii)  $PM_{2.5}$  -- 210.5  $\mu\text{g}/\text{m}^3$  -- 24- hour average;

(C) Carbon monoxide — 30 ppm — 8-hour average;

(D) Ozone – 0.4 ppm — 1-hour average;

(E) Nitrogen dioxide:

(i) 1.2 ppm — 1-hour average; or

(ii) 0.3 ppm — 24-hour average.

(4) “Air pollution emergency” condition indicates that air pollutants have reached an alarming level requiring the most stringent actions to prevent these levels from reaching the level of significant harm to the health of persons. At the air pollution emergency level extreme measures may be necessary involving the closure of all manufacturing, business operations and vehicle traffic not directly related to emergency services. Pursuant to ORS 468.115, when the conditions in both subsections (a) and (b) are met, an air pollution emergency will be declared by DEQ and all appropriate actions described in OAR 340-206-8030 and 340-206-8040 must be implemented:



(a) Meteorological dispersion conditions are not expected to improve during the next 24 or more hours;

(b) Monitored regulated pollutant levels at any monitoring site exceed any of the following:

(A) Sulfur dioxide 0.8 ppm — 24-hour average;

(B) Particulate matter:

(i)  $PM_{10}$  --  $500 \mu\text{g}/\text{m}^3$  — 2-hour average;

(ii)  $PM_{2.5}$  --  $280.5 \mu\text{g}/\text{m}^3$  — 2-hour average;

(C) Carbon monoxide 40 ppm — 8-hour average;

(D) Ozone 0.5 ppm — 1-hour average;

(E) Nitrogen dioxide:

(i) 1.6 ppm — 1-hour average; or

(ii) 0.4 ppm — 24-hour average.

(5) “Termination”: Any air pollution episode condition (alert, warning or emergency) established by these criteria may be reduced to a lower condition when the elements required for establishing the higher conditions are no longer observed.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-206-0040 Special Conditions**

(1) DEQ must issue an “ozone advisory” to the public when monitored ozone values at any site exceed the ambient air quality standard of 0.12 ppm but are less than 0.2 ppm for a one hour average. The ozone advisory must clearly identify the area where the ozone values have exceeded the ambient air standard and must state that significant health effects are not expected at these levels, however, sensitive individuals may be affected by some symptoms.

(2) Where particulate is primarily soil from windblown dust or fallout from volcanic activity, episodes dealing with such conditions must be treated differently than particulate episodes caused by other controllable sources. In making a declaration of air pollution alert, warning, or emergency for such particulate, DEQ must be guided by the following criteria:

(a) “Air pollution alert for particulate from volcanic fallout or windblown dust” means particulate values are significantly above a standard but the source is a volcanic eruption or dust storm. In this condition there is no significant danger to public health but there may be a public nuisance created from the dusty conditions. It may be advisable under these circumstances to voluntarily restrict traffic volume and/or speed limits on major thoroughfares and institute cleanup procedures. DEQ will declare an air pollution alert for particulate from volcanic fallout or wind-blown dust when particulate values at any monitoring site exceed or are projected to exceed  $800 \mu\text{g}/\text{m}^3$  — 24-hour average and the suspended particulate is primarily from volcanic activity or dust storms, meteorological conditions notwithstanding;

(b) “Air pollution warning for particulate from volcanic fallout or windblown dust” means particulate values are very high but the source is volcanic eruption or dust storm. Prolonged exposure over several days at or above these levels may produce respiratory distress in sensitive individuals. Under these conditions staggered work hours in metropolitan areas, mandated traffic reduction, speed limits and cleanup procedures may be required. DEQ will declare an air pollution warning for particulate from volcanic fallout or wind-blown dust when particulate values at any monitoring site exceed or are expected to exceed  $2,000 \text{ ug}/\text{m}^3$  — 24-hour average and the suspended particulate is primarily from volcanic activity or dust storms, meteorological conditions not withstanding;

(c) “Air pollution emergency for particulate from volcanic fallout or windblown dust” means total suspended particulate values are extremely high but the source is volcanic eruption or dust storm. Prolonged exposure over several days at or above these levels may produce respiratory distress in a significant number of people. Under these conditions cleaning procedures must be accomplished before normal traffic can be permitted. An air pollution emergency for particulate from volcanic fallout or wind-blown dust will be declared by the Director, who must keep the Governor advised of the situation, when particulate values at any monitoring site exceed or are expected to exceed  $5,000 \text{ ug}/\text{m}^3$  — 24-hour average and the particulate is primarily from volcanic activity or dust storms, meteorological conditions notwithstanding.

(3) Termination: Any air pollution condition for particulate established by these criteria may be reduced to a lower condition when the criteria for establishing the higher condition are no longer observed.

(4) Action: Municipal and county governments or other governmental agency having jurisdiction in areas affected by an air pollution alert, warning or emergency for particulate from volcanic fallout or windblown dust must place into effect the actions pertaining to such episodes which are described in OAR 340-206-8040.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-206-0050 Source Emission Reduction Plans**

(1) OAR 340-206-8010 through 340-206-8030 set forth specific emission reduction measures which must be taken upon the declaration of an air pollution alert, air pollution warning, or air pollution emergency. Any person responsible for a source of air contamination within a Priority I AQCR must, upon declaration of any air pollution episode condition affecting the locality of the air contamination source, take all appropriate actions specified in the applicable rule and must take appropriate actions specified in an approved source emission reduction plan which has been submitted and is on file with DEQ.

(2) Any person responsible for the operation of any point source of air pollution which is located in a Priority I AQCR, located within an AQMA or located within a nonattainment area listed in 40 CFR, Part 81, and emits 100 tons or more of any regulated pollutant specified by subsection (a) or (b) must file a Source Emission Reduction Plan (SERP) with DEQ in accordance with the schedule described in section (4). Persons responsible for other point sources of air pollution located in a Priority I AQCR may optionally file a SERP with DEQ for approval. Such plans must specify procedures to implement the actions required by OAR 340-206-8010 through 340-206-8030 and must be consistent with good engineering practice and safe operating procedures. Source emission reduction plans specified by this section are mandatory only for those sources which:

(a) Emit 100 tons per year or more of any regulated pollutant for which the nonattainment area, AQMA, or any portion of the AQMA is designated nonattainment; or

(b) Emit 100 tons per year or more of volatile organic compounds when the nonattainment area, AQMA or any portion of the AQMA is designated nonattainment for ozone.

(3) Municipal and county governments or other governmental body having jurisdiction in nonattainment areas where ambient levels of carbon monoxide, ozone or nitrogen dioxide qualify for Priority I AQCR classification, must cooperate with DEQ in developing a traffic control plan to be implemented during air pollution episodes of motor vehicle related emissions. Such plans must implement the actions required by OAR 340-206-8010 through 340-206-8030 and must be consistent with good traffic management practice and public safety.

(4) DEQ must periodically review the source emission reduction plans to assure that they meet the requirements of this division. If deficiencies are found, DEQ must notify the persons responsible for the source. Within 60 days of such notice the person responsible for the source must prepare a corrected plan for approval by DEQ. Source emission reduction plans must not be effective until approved by DEQ.

(5) During an air pollution alert, warning or emergency episode, source emission reduction plans required by this rule must be available on the source premises for inspection by any person

authorized to enforce the provisions of this division.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-206-0060 Regional Air Pollution Authorities**

(1) DEQ and LRAPA must cooperate to the fullest extent possible to insure uniformity of enforcement and administrative action necessary to implement this division. With the exception of sources of air contamination where jurisdiction has been retained by the DEQ, all persons within the territorial jurisdiction of LRAPA must submit the source emission reduction plans prescribed in OAR 340-206-0050 to the regional air pollution authority. LRAPA must submit copies of approved source emission reduction plans to DEQ.

(2) Declarations of air pollution alert, air pollution warning, and air pollution emergency must be made by LRAPA. In the event such a declaration is not made by LRAPA, DEQ must issue the declaration and LRAPA must take appropriate remedial actions as set forth in this division.

(3) Additional responsibilities of LRAPA include, but are not limited to:

(a) Securing acceptable source emission reduction plans;

(b) Measurement and reporting of air quality data to DEQ;

(c) Informing the public, news media, and persons responsible for air contaminant sources of the various levels set forth in this division and required actions to be taken to maintain air quality and the public health;

(d) Surveillance and enforcement of source emission reduction plans.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-206-0070 Operations Manual**

DEQ must maintain an operations manual to administer the provisions of this division. This manual must be available to the Department Emergency Action office at all times. At a minimum the operations manual must contain the following elements:

(1) A copy of this division.

(2) A chapter on communications which must include:

(a) Telephone lists naming public officials, public health and safety agencies, local government agencies, emission sources, news media agencies and individuals who need to be informed about

the episode status and information updates. These telephone lists must be specific to episode conditions and will be used when declaring and cancelling episode conditions;

(b) Example and sample messages to be released to the news media for declaring or modifying an episode status.

(3) A chapter on data gathering and evaluation which must include:

(a) A description of ambient air monitoring activities to be conducted at each episode stage including “standby”;

(b) Assignment of responsibilities and duties for ascertaining ambient air levels of specified regulated pollutants and notification when levels reach the predetermined episode levels;

(c) Assignment of responsibilities and duties for monitoring meteorological developments from teletype reports and National Weather Service contacts. Part of this responsibility must be to evaluate the meteorological conditions for their potential to affect ambient regulated pollutant levels.

(4) A chapter defining responsibilities and duties for conducting appropriate source compliance inspections during episode stages requiring curtailment of regulated pollutant emissions.

(5) A chapter establishing the duties and responsibilities of the emergency action center personnel to assure coordinated operation during an air pollution episode established in accordance with this division.

(6) An appendix containing individual source emission reduction plans required by this division plus any approved voluntary plans.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-206-8010 Air Pollution Episode ALERT Conditions Source Emission Reduction Plan Emission Control Actions to be Taken as Appropriate in Alert Episode Area**

**Part A - Pollution Episode Conditions for Particulate Matter (Except Particulate from Volcanic Activity or Windblown Dust.**

- (1) There shall be no open burning of any material in the designated Alert Episode area.
- (2) Where appropriate and if air quality maintenance strategies have not already prohibited the use of woodstoves and fireplaces, the public is requested to refrain from using coal or wood in

uncertified woodstoves and fireplaces for domestic space heating where other heating methods are available.

- (3) Sources having Emission Reduction Plans, review plans and assure readiness to put them into effect if conditions worsen.

**Part B - Pollution Episode Conditions for Carbon Monoxide, Ozone**

- All persons operating motor vehicles voluntarily reduce or eliminate unnecessary operations within the designated alert area.
- Where appropriate, the public is requested to refrain from using coal or wood in uncertified woodstoves and fireplaces for domestic space heating where other heating methods are available.
- Governmental and other agencies, review actions to be taken in the event of an air pollution warning.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

**340-206-8020 Air Pollution Episode WARNING Conditions Emission Reduction Plan**

<b>Part A - Pollution Episode Conditions for Particulate Matter (PM<sub>10</sub>) (Except Particulate from Volcanic Activity or Windblown Dust.)</b>	
<b>Source</b>	<b>Emission control action to be taken as appropriate in warning area</b>
a. General (all sources and general public).	a. Continue alert procedures. b. Where legal authority exists, governmental agencies shall prohibit all use of woodstoves and fireplaces for domestic space heating except where such woodstoves and fireplaces provide the sole source of heat. c. The use of incinerators for disposal of solid or liquid waste is prohibited. d. Reduce emissions as much as possible consistent with safety to people and prevention of irreparable damage to equipment. e. Prepare for procedures to be followed if an emergency episode develops.
b. Specific additional general requirements for coal, oil or wood-fired electric power or steam generating facilities.	a. Effect a maximum reduction in emissions by switching to fuels having the lowest available ash and sulfur content.

	<p>b. Switch to electric power sources located outside the Air Pollution Warning area or to noncombustion sources (hydro, thermonuclear).</p> <p>c. Cease operation of facilities not related to safety or protection of equipment or delivery of priority power.</p>
<p>c. Specific additional general requirements for manufacturing industries including: Petroleum, Refining, Chemical, Primary Metals, Glass, Paper and Allied Products, Mineral Processing, Grain and Wood Processing.</p>	<p>a. Reduce process heat load demand to the minimum possible consistent with safety and protection of equipment.</p> <p>b. Reduce emission of air contaminants from manufacturing by closing, postponing or deferring production to the maximum extent possible without causing injury to persons or damage to equipment. In so doing, assume reasonable economic hardships. Do not commence new cooks, batches or furnace changes in batch operation. Reduce continuous operations to minimum operating level where practicable.</p> <p>c. Defer trade waste disposal operations which emit solid particles, gases, vapors or malodorous substances.</p>

### **Air Pollution Episode WARNING Conditions Emission Reduction Plan**

**Part B** - Pollution Episode Conditions for Carbon Monoxide, Ozone: control actions to be taken as appropriate in warning area.

- a. All operators of motor vehicles continue alert procedures.
- b. Operation of motor vehicles carrying fewer than three persons shall be requested to avoid designated Warning Episode areas from 6 a.m. to 11 a.m., and 2 p.m. to 7 p.m. or other hours as may be specified by the Department. Exempted from this request are:
  - 1. Emergency vehicles
  - 2. Public transportation
  - 3. Commercial vehicles
  - 4. Through traffic remaining on Interstate or primary highways
  - 5. Traffic controlled by a preplanned strategy
- c. In accordance with a traffic control plan prepared pursuant to OAR 340-206-0050, public transportation operators shall provide the additional service necessary to minimize the public inconvenience resulting from actions taken in accordance with paragraph b. above.

d. For ozone episodes there shall be:

1. No bulk transfer of gasoline without vapor recovery from 2 a.m. to 2 p.m.
2. No service station pumping sales of gasoline from 2 a.m. to 2 p.m.
3. No operation of paper coating plants from 2 a.m. to 2 p.m.
4. No architectural painting or auto refinishing.
5. No venting of dry cleaning solvents from 2 a.m. to 2 p.m. (except perchloroethylene).

e. When appropriate for carbon monoxide episodes during the heating season and where legal authority exists, governmental agencies shall prohibit all use of woodstoves and fireplaces for domestic space heating except where such woodstoves and fireplaces provide the sole source of heat.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-206-8030 Air Pollution Episode EMERGENCY Conditions Emission Reduction Plan**

<b>Pollution Episode Conditions for all Pollutants (Except Particulate from Volcanic Activity or Windblown Dust.)</b>	
<b>Source</b>	<b>Emission control actions to be taken as appropriate in emergency area</b>
a. Requirements for all measures sources and general public.	<ol style="list-style-type: none"><li>a. Continue emission reduction taken under warning conditions.</li><li>b. All places of employment, commerce, trade, public gatherings, government, industry, business, or manufacture shall immediately cease operations.</li><li>c. Paragraph b. above does not apply to:<ol style="list-style-type: none"><li>1. Police, fire, medical and other emergency services.</li><li>2. Utility and communication services.</li><li>3. Governmental functioning necessary for civil control and safety.</li><li>4. Operations necessary to prevent injury to persons or serious damage to equipment or property.</li><li>5. Food stores, drug stores and operations necessary for their supply.</li><li>6. Operations necessary for evacuation of persons leaving the area.</li><li>7. Operations conducted in accordance with an approved Source Emission Reduction Plan on file with the Department.</li></ol></li><li>d. The operation of motor vehicles is prohibited except</li></ol>



<b>Pollution Episode Conditions for all Pollutants (Except Particulate from Volcanic Activity or Windblown Dust.)</b>	
<b>Source</b>	<b>Emission control actions to be taken as appropriate in emergency area</b>
	<p>for the conduct of the functions exempted in paragraph c. above.</p> <p>e. Reduce heat and power loads to a minimum by maintaining heated occupied spaces no higher than 65° F and turning off heat to all other spaces.</p> <p>f. Where legal authority exists, governmental agencies shall prohibit all use of woodstoves and fireplaces for domestic space heating.</p>
b. Specific additional requirements for coal oil or wood-fired electric power generating facilities operating under an approved source emission reduction plan.	a. Maintain operation at the lowest level possible consistent with prevention of damage to equipment and power production no higher than is required to supply power which is obtained elsewhere for essential services.
c. Specific additional requirements for coal, oil or wood-fired steam generating facilities operating under an approved source emission reduction plan.	a. Reduce operation to lowest level possible consistent with preventing damage to equipment.
d. Specific additional requirements for industries operating under an approved source emission reduction plan including: Petroleum Refining; Chemical; Primary Metals; Glass; Paper and Allied Products; Mineral Processing; Grain; Wood Processing.	<p>a. Cease all trade waste disposal operations.</p> <p>b. If meteorological conditions are expected to persist for 24 hours or more, cease all operations not required for safety and protection of equipment.</p>

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-206-8040 Air Pollution Episode Conditions Due to Particulate Which is Primarily Fallout from Volcanic Activity or Windblown Dust**

#### **Ambient Particulate Control Measures to be Taken as Appropriate in Episode Area**

#### **Part A - ALERT Condition Actions**

1. Traffic reduction by voluntary route control in contaminated areas.
2. Voluntary motor vehicle speed limits in dusty or fallout areas.
3. Voluntary street sweeping.
4. Voluntary wash down of traffic areas.

#### **Part B - WARNING Condition Actions**

1. Continue and intensify alert procedures.
2. Mandated speed limits and route control in contaminated areas.
3. Mandate wash down of exposed horizontal surfaces where feasible.
4. Request businesses to stagger work hours where possible as a means of avoiding heavy traffic.

#### **Part C - EMERGENCY Condition Actions**

1. Continue warning level procedures, expanding applicable area if necessary.
2. Prohibit all except emergency traffic on major roads and thoroughfares until the area has been cleaned.
3. Other measures may be required at the discretion of the Governor.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **DIVISION 208**

#### **VISIBLE EMISSIONS AND NUISANCE REQUIREMENTS**

##### **340-208-0005 Applicability and Jurisdiction**

(1) This division applies in all areas of the state; except rules OAR 340-208-0500 through 340-208-0610, which apply in all areas of Clackamas, Columbia, Multnomah and Washington counties.

(2) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-208-0010 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) “Abate” means to eliminate the nuisance or suspected nuisance by reducing or managing the emissions using reasonably available practices. The degree of abatement will depend on an evaluation of all of the circumstances of each case and does not necessarily mean completely eliminating the emissions.

(2) “Nuisance” means a substantial and unreasonable interference with another's use and enjoyment of real property, or the substantial and unreasonable invasion of a right common to members of the general public.

(3) “Special control area” means an area designated in OAR 340-204-0070.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **VISIBLE EMISSIONS**

### **340-208-0110 Visible Air Contaminant Limitations**

(1) The emissions standards in this rule do not apply to fugitive emissions from a source or part of a source.

(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 CFR part 60; or

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

(3) For sources, 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) An average of 20 percent opacity on and after January 1, 2020.

(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.

(5) For wood-fired boilers installed, constructed or modified prior to June 1, 1970, 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) An average of 20 percent opacity on or after January 1, 2020, with one or more of the following exceptions:

(A) 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;

(B) 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

(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 340-228-0210(2)(d) as provided below:

(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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## FUGITIVE EMISSION REQUIREMENTS

### **340-208-0210 Requirements for Fugitive Emissions**

(1) No person may cause or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished; or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions may include, but not be limited to the following:

(a) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(b) Application of water or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces which can create airborne dusts;

(c) Full or partial enclosure of materials stockpiles in cases where application of water or other suitable chemicals are not sufficient to prevent particulate matter from becoming airborne;

(d) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;

(e) Adequate containment during sandblasting or other similar operations;

(f) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;

(g) The prompt removal from paved streets of earth or other material that does or may become airborne.

(2) When fugitive particulate emissions escape from an air contaminant source, DEQ may order the owner or operator to abate the emissions. In addition to other means, DEQ may order that a building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that air contaminants are controlled or removed before being emitted to the open air.

(a) For purposes of this section, fugitive emissions are visible emissions that leave the property of a source for a period or periods totaling more than 18 seconds in a six-minute period. The minimum observation time must be at least six minutes unless otherwise specified in a permit.

(b) Fugitive emissions are determined by EPA Method 22 at the downwind property boundary.

(3) If requested by DEQ, the owner or operator must develop a fugitive emission control plan, including but not limited to the work practices in section (1), that will prevent any visible emissions from leaving the property of a source for more than 18 seconds in a six-minute period following the procedures of EPA Method 22.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 209**

### **PUBLIC PARTICIPATION**

#### **340-209-0010 Purpose**

The purpose of this division is to specify the requirements for notifying the public of certain permit actions and providing an opportunity for the public to participate in those permit actions.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-209-0020 Applicability**

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

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

### **340-209-0030 Public Notice Categories and Timing**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Anticipated public interest in the facility;

(b) Compliance and enforcement history of the facility or owner;

(c) Potential for significant environmental or public harm due to location or type of facility; or

(d) Federal requirements.

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

### **340-209-0040 Public Notice Information**

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

(a) Name of applicant and location of the facility;

(b) Type of facility, including a description of the facility's processes subject to the permit;

(c) Description of the air contaminant emissions including, the type of regulated pollutants, quantity of emissions, and any decreases or increases since the last permit action for the facility;

(d) Location and description of documents relied upon in preparing the draft permit;



- (e) Other permits required by DEQ;
- (f) Date of previous permit actions;
- (g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the public notice category);
- (h) Compliance, enforcement, and complaint history along with resolution of the same;
- (i) A summary of the discretionary decisions made by DEQ in drafting the permit;
- (j) Type and duration of the proposed or draft permit action;
- (k) Basis of need for the proposed or draft permit action;
- (l) Any special conditions imposed in the proposed or draft permit action;
- (m) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment/unclassified, sustainment, nonattainment, reattainment or maintenance for that pollutant;
- (n) If the proposed permit action is for a federal major source, whether the proposed permitted emission would have a significant impact on a Class I airshed;
- (o) If the proposed permit action is for a major source for which dispersion modeling has been performed, an indication of what impact each proposed permitted emission would have on the ambient air quality standard and PSD increment consumption within an attainment area;
- (p) Other available information relevant to the permitting action;
- (q) The name and address of DEQ office processing the permit;
- (r) The name, address, and telephone number and e-mail address of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, except for information that is exempt from disclosure, and all other materials available to DEQ that are relevant to the permit decision; and

(s) If applicable, a statement that an enhanced NSR process under OAR 340 division 224, including the external review procedures required under OAR 340-218-0210 and 340-218-0230, is being used to allow for subsequent incorporation of the operating approval into an Oregon Title V Operating Permit as an administrative amendment.

(t) For Toxic Air Contaminant Permit Addenda and ACDP permits that include conditions consistent with OAR chapter 340, division 245, a list of estimated toxic air contaminant emissions and, if applicable, a summary of the results of any risk assessment.

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

(a) The name and address of potential or actual facilities assigned to the General Permit;

(b) Type of facility, including a description of the facility's process subject to the permit;

(c) Description of the air contaminant emissions including, the type of regulated pollutants, quantity of emissions, and any decreases or increases since the last permit action for the potential or actual facilities assigned to the permit;

(d) Location and description of documents relied upon in preparing the draft permit;

(e) Other permits required by DEQ;

(f) Date of previous permit actions;

(g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the Public Notice category);

(h) Compliance, enforcement, and complaint history along with resolution of the same;

(i) A summary of the discretionary decisions made by DEQ in drafting the permit;

(j) Type and duration of the proposed or draft permit action;

(k) Basis of need for the proposed or draft permit action;

(l) Any special conditions imposed in the proposed or draft permit action;

(m) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the sources are located are designated as attainment or non-attainment for that pollutant;

(n) If the proposed permit action is for a federal major source, whether the proposed permitted emission would have a significant impact on a Class I airshed;

(o) Other available information relevant to the permitting action; and

(p) The name and address of DEQ office processing the permit;

(q) The name, address, and telephone number and e-mail address of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, except for information that is exempt from disclosure, and all other materials available to DEQ that are relevant to the permit decision.

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

### **340-209-0050 Public Notice Procedures**

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

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

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

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

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

### **340-209-0060 Persons Required to Be Notified**

(1) All notices. For all types of public notice, DEQ will provide notice to the following persons:

(a) The applicant;

(b) Persons on a mailing list maintained by DEQ, including those who request in writing to be notified of air quality permit actions;

(c) Local news media; and

(d) Interested state and federal agencies.

(2) General ACDP or General Oregon Title V Operating Permit actions. In addition to section (1), DEQ will notify the following:

(a) Potential applicants; and

(b) All existing permit holders in the source category in the case where a General Permit is being issued to a category of sources already permitted.

(3) Oregon Title V Operating Permit actions. DEQ will provide notice to affected states and the EPA in addition to the persons identified in sections (1) and (2).

(4) NSR actions. For NSR actions excluding Type B State NSR actions (OAR 340 division 224), DEQ will provide notice to the following officials and agencies having jurisdiction over the location where the proposed construction would occur in addition to the persons identified in section (1):

(a) The chief executives of the city and county where the source or modification would be located;

(b) Any comprehensive regional land use planning agency;

(c) Any state, federal land manager, or Indian governing body whose land may be affected by emissions from the source or modification; and

(d) The EPA.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 during the hearing 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 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.

(6) Denial of a permit: DEQ will promptly notify the applicant in writing of the final action as provided in OAR 340-011-0525. If DEQ denies a permit application, the notification will include the reasons for the denial.

(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. The request for a hearing 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 340 division 11.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 210**

### **STATIONARY SOURCE NOTIFICATION REQUIREMENTS**

#### **340-210-0010 Applicability and Jurisdiction**

(1) This division applies to air contaminant sources, to stationary sources, and to modifications of existing portable sources that are required to have permits under OAR 340 division 216.

(2) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **340-210-0020 Definitions**

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

rule applies to this division.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## REGISTRATION

### **340-210-0100 Registration in General**

(1) Any air contaminant source not subject to Air Contaminant Discharge Permits, OAR 340 division 216, or Oregon Title V Operating Permits, OAR 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 and 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 OAR 340-216-0020, unless DEQ determines that the source has not complied with the requirements of the environmental certification program.

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

(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 or NESHAP in 40 CFR part 60 or 40 CFR part 3 and that is not located at a source that is required to obtain a permit under OAR 340 division 216 (Air Contaminant Discharge Permits) or OAR 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-210-0110 Registration Requirements**

(1) Registration pursuant to OAR 340-210-0100(1) or (3) must be completed within 30 days following the mailing date of the request by DEQ.

2) Registration must be completed by the owner, lessee of the source, or agent on forms made available by DEQ. If a form is not available from DEQ, the registrant may provide the information using a format approved by DEQ.

(3) In order to obtain registration pursuant to OAR 340-210-0100(1), the following information must be reported by registrants:

(a) Name, address, 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) A description of the production processes and a related flow chart;

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

(f) Type and quantity of fuels used;

(g) Amount, nature, and duration of air contaminant emissions;

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

(i) Any other information requested by DEQ.

(4) In order to obtain registration pursuant to OAR 340-210-0100(2), the following information must be submitted by a registrant:

(a) Name, address, 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) Information demonstrating that the air contaminant source is operating in compliance with all applicable state and federal rules and regulations, as requested by DEQ.

(e) Information demonstrating that the source is certified through an approved environmental certification program.

(f) A signed statement that the submitted information is true, accurate, and complete. This signed statement must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(g) Any other information requested by DEQ.

(5) In order to obtain registration pursuant to OAR 340-210-0100(3), the following information must be submitted by a registrant:

(a) Name, address and nature of business or institution;

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

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

(d) A description of the air contaminant source subject to regulation;

(e) Identification of the applicable regulation;



(f) Confirmation that approval to construct and operate the air contaminant source was obtained in accordance with OAR 340-210-0205 through 340-0210-0250;

(g) Confirmation that the air contaminant source is operating in compliance with all applicable state rules and regulations, including but not limited to OAR 340-208-0110 (visible air contaminant limitations) and 340-226-0210 or 340-228-0210 (grain loading standards);

(h) Confirmation that the air contaminant source is operating in compliance with all applicable federal rules and regulations, including but not limited to 40 CFR part 60 and part 63 standards and work practice requirements, such as routine tune-up for boilers; and

(i) Any other information requested by DEQ.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-210-0120 Re-Registration and Maintaining Registration**

(1) In order to re-register or maintain registration pursuant to OAR 340-210-0100, a person responsible for an air contaminant source must reaffirm in writing, by March 1 of each year, the correctness and current status of the information furnished to DEQ.

(2) In order to re-register or maintain registration pursuant to OAR 340-210-0100(3):

(a) The registrant must report any change in any of the factual information reported under OAR 340-210-0110 to DEQ on a form made available by DEQ; and

(b) The registrant must confirm the compliance status of the air contaminant source, including but not limited to compliance with any work practice requirements such as routine tune-ups. Confirmation must be made in writing on a form furnished by DEQ.

(3) In order to re-register, or maintain registration, a person must not have had their registration terminated or revoked within the last 3 years, unless the air contaminant source has changed ownership since termination or revocation, in which case the person must not have had their registration terminated or revoked since the change in ownership.

(4) If a registered air contaminant source is sold or transferred, the sale or transfer must be reported to DEQ by either the former owner or the new owner within 30 days of the date of sale or transfer. The new owner of the registered air contaminant source must register the air contaminant source within 30 days of the date of sale or transfer in accordance with OAR 340-210-0110(2) and (5).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **NOTICE OF CONSTRUCTION AND APPROVAL OF PLANS**

### **340-210-0205 Applicability**

(1) Except as provided in section (2), OAR 340-210-0200 through 340-210-0250 apply to the following:

(a) All new sources not otherwise required to obtain a permit under OAR 340, division 216 or 218. Sources that are required to submit a permit application under OAR 340, division 216 or 218 are not required to submit a Notice of Construction application under this rule;

(b) Modifications at existing sources, including sources that have permits under OAR 340 division 216 or 218; and

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

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

(c) 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;

(d) Portable sources, except modifications of portable sources that have permits under OAR 340 division 216 or 218; and

(e) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-210-0215 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-210-0225 Types of Construction / Modifications 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 include construction or modification of sources or air pollution control devices where such a change meets the criteria in subsections (a) through (f):

(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):

(a) Would not increase emissions from the source above the PSEL by more than the de minimis 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 or equal to the SER;

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

(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.

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

(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 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-210-0230 Notice to Construct and Approval of Plans: Notice to Construct**

(1) Any person proposing a Type 1 or 2 change must provide notice and applicable fees in OAR 340-216-8020 to DEQ before constructing or modifying a stationary source or air pollution control device. The notice must be in writing on a form supplied by DEQ and include the following information as applicable:

(a) Name, address, 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 340-210-0220;
  - (e) A description of the constructed or modified source;
  - (f) A description of the production processes and a related flow chart for the constructed or modified source;
  - (g) A plot plan showing the location and height of the constructed or modified source. The plot plan must also indicate the nearest residential or commercial property;
  - (h) Type and quantity of fuels used;
  - (i) The change in the amount, nature and duration of regulated pollutant emissions;
  - (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;
  - (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;
  - (l) A list of any requirements applicable to the new construction or modification;
  - (m) 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
  - (n) Amount and method of refuse disposal; and
  - (o) Land Use Compatibility Statement 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.
- (2) Any person proposing a Type 3 or 4 change must submit an application for either a construction ACDP, new permit, or permit modification, whichever is appropriate.
- (3) The owner of operator must notify DEQ of any corrections and revisions to the plans and specifications upon becoming aware of the changes.
- (4) Where a permit issued in accordance with OAR 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.

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

**(1) Approval to Construct:**

(a) For Type 1 changes, the owner or operator may proceed with the construction or modification 10 calendar days after DEQ receives the notice required in OAR 340-210-0230 or on the date that DEQ approves the proposed construction in writing, whichever is sooner, unless DEQ notifies the owner or operator in writing that the proposed construction or modification is not a Type 1 change.

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

(c) For Type 3 changes, the owner or operator must obtain either a Construction ACDP or a new or modified Standard ACDP in accordance with OAR 340 division 216 before proceeding with the construction or modification.

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

(2) Approval to construct does not relieve the owner of the obligation of complying with applicable requirements.

(3) Notice of Completion. Unless otherwise specified in the construction ACDP or approval, the owner or operator 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; and

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

(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 by certified mail.

(5) Hearing. A 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 division 11 of this chapter.

*State effective: 9/21/2020; EPA approval: 5/12/2022, 87 FR 29046; EPA effective: 6/13/2022*

### **340-210-0250 Approval to Operate**

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

(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.

(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, Type 3 or 4 changes require a standard ACDP before operation of the changes.

(b) For sources currently operating under an ACDP, approval to operate Type 3 or 4 changes will require a new or modified standard ACDP. All ACDP terms and conditions remain in effect until the ACDP is modified.

(c) For sources currently operating under an Oregon Title V Operating Permit, approval to operate Type 3 or 4 changes must be in accordance with OAR 340-218-0190(2).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 212**

### **STATIONARY SOURCE TESTING AND MONITORING**

#### **340-212-0005 Applicability and Jurisdiction**

(1) This division applies in all areas of the state.

(2) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **340-212-0010 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **SAMPLING, TESTING AND MEASUREMENT**

#### **340-212-0110 Applicability**

OAR 340-212-0110 through 340-212-0150 apply to all stationary sources in the state. Stationary source includes portable sources that are required to have permits under division 216.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*



### **340-212-0120 Program**

(1) As part of its coordinated program of air quality control and preventing and abating air pollution, DEQ may:

- (a) Require the owner or operator of a stationary source to determine the type, quantity, quality, and duration of the emissions from any air contamination source;
- (b) Require full reporting in writing of all test procedures and signed by the person or persons responsible for conducting the tests;
- (c) Require continuous monitoring of specified air contaminant emissions or parameters and periodic regular reporting of the results of such monitoring.

(2) DEQ may require an owner or operator of a source to provide emission testing facilities as follows:

(a) Sampling ports, safe sampling platforms, and access to sampling platforms adequate for test methods applicable to such source; and

(b) Utilities for sampling and testing equipment.

(3) Testing must be conducted in accordance with the DEQ Source Sampling Manual, the DEQ Continuous Monitoring Manual, or an applicable EPA Reference Method unless DEQ, if allowed under applicable federal requirements:

(a) Specifies or approves minor changes in methodology in specific cases;

(b) Approves the use of an equivalent or alternative method as defined in division 200;

(c) Waives the testing requirement because the owner or operator has satisfied DEQ that the affected facility is in compliance with applicable requirements; or

(d) Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-212-0130 Stack Heights and Dispersion Techniques**

(1) 40 CFR parts 51.100(ff) through 51.100(kk), and 51.118, 51.160 through 51.166, concerning stack heights and dispersion techniques, are adopted and incorporated herein. The federal rule generally prohibits the use of excessive stack height and certain dispersion techniques when calculating compliance with ambient air quality standards. The rule forbids neither the construction and actual use of excessively tall stacks, nor the use of dispersion techniques. It only forbids their use in noted calculations. The rule generally applies as follows. Stacks 65

meters high or greater that were constructed after December 31, 1970, and major modifications made after December 31, 1970 to existing plants with stacks 65 meters high or greater which were constructed before that date are subject to this rule. Certain stacks at federally owned, coal-fired steam electric generating units constructed under a contract awarded before February 8, 1974 are exempt. Any dispersion technique implemented after December 31, 1970 at any plant is subject to this rule. However, if the plant's total allowable emissions of sulfur dioxide are less than 5,000 tons per year, then certain dispersion techniques to increase final exhaust gas plume rise may be used when calculating compliance with ambient air quality standards for sulfur dioxide.

(2) Where found in the federal rule, the following terms apply:

(a) "Reviewing agency" means DEQ, LRAPA, or the EPA, as applicable;

(b) "Authority administering the State Implementation Plan" means DEQ, LRAPA, or EPA;

(c) The "procedures" referred to in 40 CFR 51.164 are the DEQ Major NSR procedures (OAR 340-224-0010 through 340-224-0070 and OAR 340-224-0500 through 340-224-0540 or Title 38 of LRAPA rules), and the review procedures for new, or modifications to, minor sources, at the DEQ review procedures for new or modified minor sources (OAR 340-210-0205 to 340-210-0250, OAR 340 division 216, OAR 340-224-0010 through 340-224-0038, OAR 340-224-0200 through 340-224-0270 and OAR 340-224-0500 through 340-224-0540, or LRAPA Title 34).

(d) "The state" or "state, or local control agency" as referred to in 40 CFR 51.118, means DEQ or LRAPA;

(e) "Applicable state implementation plan" and "plan" refer to the DEQ or LRAPA programs and rules, as approved by the EPA, or any regulations promulgated by EPA (see 40 CFR part 52, subpart MM).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-212-0140 Methods**

(1) Any sampling, testing, or measurement performed pursuant to this division must conform to methods contained in the DEQ Source Sampling Manual or to recognized applicable standard methods approved in advance by DEQ.

(2) DEQ may approve an equivalent or alternative method as defined in division 200.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-212-0150 Department Testing**

Instead of asking for tests and sampling of emissions from the owner or operator of a source, DEQ may conduct such tests alone or in conjunction with the owner or operator. If DEQ

conducts the testing or sampling, the agency will provide a copy of the results to the owner or operator.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 214**

### **STATIONARY SOURCE REPORTING REQUIREMENTS**

#### **340-214-0005 Applicability and Jurisdiction**

(1) This division applies in all areas of the state.

(2) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **340-214-0010 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Large source", as used in OAR 340-214-0300 through 340-214-0350, means any stationary source required to maintain a Title V Operating Permit or whose actual emissions or potential controlled emissions while operating full time at the design capacity are equal to or exceed 100 tons per year of any regulated pollutant other than GHG.

(2) "Small source" means any other stationary source that is not a large source and that operates under a basic, general, simple or standard ACDP.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **REPORTING**

#### **340-214-0100 Applicability**

OAR 340-214-0100 through 340-214-0130 apply to all stationary sources in the state. Stationary source includes portable sources that are required to have permits under division 216.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **340-214-0110 Request for Information**

All stationary sources must provide in a reasonably timely manner any and all information that DEQ reasonably requires for the purpose of regulating stationary sources. 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; and
- (4) Incorporate monitoring, recordkeeping, reporting, and compliance certification requirements into a permit.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-214-0114 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) All reports and certifications submitted to DEQ under divisions 200 to 264 must accurately reflect the monitoring, record keeping and other documentation held or performed by the owner or operator.
- (5) The owner or operator of any source required to obtain a permit under OAR 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-214-0120 Enforcement**

Notwithstanding any other provisions contained in any applicable requirement, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such applicable requirements.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-214-0130 Information Exempt from Disclosure**

(1) Pursuant to the provisions of ORS 192.410 to 192.505, 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 192.410, 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## EMISSION STATEMENTS FOR VOC AND NO<sub>x</sub> SOURCES

### **340-214-0200 Purpose and Applicability**

- (1) The purpose of these rules is to obtain data on actual emissions of VOCs and NO<sub>x</sub> from sources in ozone nonattainment areas, in accordance with FCAA requirements, for the purpose of monitoring progress toward attainment of the ozone ambient air quality standards.
- (2) OAR 340-214-0200 through 340-214-0220 apply to sources of VOC and NO<sub>x</sub> in ozone nonattainment areas that have a PSEL equal to or greater than 25 tons per year for either regulated pollutant, or whose actual emissions are equal to or greater than 25 tons per year for either regulated pollutant.
- (3) For purposes of establishing consistent emission reporting requirements, owners or operators of VOC and NO<sub>x</sub> sources already subject to Oregon Title V Operating Permit Fees, OAR 340 division 220, and electing to pay fees based on actual emissions must report emission data to DEQ, utilizing procedures identified in those rules to calculate actual VOC and NO<sub>x</sub> emissions, to the extent applicable. Owners or operators of other sources must use current and applicable emission factors and actual production data to estimate and report actual emissions.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-214-0210 Requirements**

- (1) Owners or operators of VOC and NO<sub>x</sub> sources subject to the requirements of OAR 340-214-0200 through 340-214-0220 must submit data annually on the average actual emissions during the ozone season to DEQ. These Emission Statements must contain the following information:
  - (a) Certification that the information contained in the statement is accurate to the best of the certifying individual's knowledge;
  - (b) Source identification information: full name, physical location, mailing address of the facility, and permit number; and
  - (c) Emissions information:
    - (A) The VOC and NO<sub>x</sub> actual emissions on an average operating day basis during the preceding year's ozone season, by source category. For the purpose of this requirement, actual emissions include, but are not limited to routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities; and
    - (B) Each emission factor used and the reference source for the emission factor, if applicable, or an explanation of any other method or procedure used to calculate emissions, e.g., material balance, source test, or continuous monitoring.

(2) Owners or operators of sources subject to these rules must keep at the plant site records of the information used to calculate actual emissions pursuant to these rules. These records must contain all applicable operating data, process rate data, control device efficiency information, and other information used to calculate or estimate actual emissions. The information must be available for DEQ's review or submitted upon request. Such records must be kept by the owner or operator for three years after the date of the submittal of the emission statement.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-214-0220 Submission of Emission Statement**

The owner or operator of any facility meeting the applicability requirements stated in OAR 340-214-0200 must submit annual Emission Statements to DEQ. The Emission Statement for the preceding calendar year is due to DEQ no later than the due date for the annual permit report specified in the source's ACDP or Oregon Title V Operating Permit.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **EXCESS EMISSIONS AND EMERGENCY PROVISION**

### **340-214-0300 Purpose and Applicability**

Emissions of air contaminants in excess of applicable standards or permit conditions are unauthorized and subject to enforcement action. OAR 340-214-0300 through 340-214-0360 apply to any source that emits air contaminants in excess of any applicable air quality rule or permit condition, including but not limited to excess emissions resulting from the breakdown of air pollution control equipment or operating equipment, process upset, startup, shutdown, or scheduled maintenance. Sources that do not emit air contaminants in excess of any applicable air quality rule or permit condition are not subject to the recordkeeping and reporting requirements in OAR 340-214-0300 through 340-214-0360. The purpose of these rules is to:

- (1) Require that, where applicable, the owner or operator immediately report all excess emissions to the Department;
- (2) Require the owner or operator to submit information and data regarding conditions that resulted or could result in excess emissions;
- (3) Identify criteria for the Department to use in determining whether it will take enforcement action against an owner or operator for an excess emission; and
- (4) Provide owners and operators an affirmative defense to a penalty action when noncompliance with technology-based emission limits is due to an emergency, as provided in OAR 340-214-0360.

*State effective: 11/8/2007; EPA approval: 12/27/2011, 76 FR 80747; EPA effective: 1/26/2012*

### **340-214-0310 Planned Startup and Shutdown**

(1) This rule applies to any source where startup or shutdown of a production process or system may result in excess emissions, and

(a) That is a major source; or

(b) That is in a non-attainment or maintenance area for the pollutant which may constitute excess emissions; or

(c) From which the Department requires the application in section (2) of this rule.

(2) The owner or operator must obtain prior Department authorization of startup and shutdown procedures. The owner or operator must submit to the Department a written application for approval of new procedures or modifications to existing procedures. The application must be submitted in time for the Department to receive it at least 72 hours before the first occurrence of a startup or shutdown event to which the procedures apply. The application must:

(a) Explain why the excess emissions during startup and shutdown cannot be avoided;

(b) Identify the specific production process or system that will cause the excess emissions;

(c) Identify the nature of the air contaminants likely to be emitted and estimate the amount and duration of the excess emissions; and

(d) Identify specific procedures to be followed that will minimize excess emissions at all times during startup and shutdown.

(3) The Department 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. The owner or operator must record all excess emissions in the excess emissions log, as required in OAR 340-214-0340(3). Approval of the procedures does not shield the owner or operator from an enforcement action, but the Department will consider whether the procedures were followed in determining whether an enforcement action is appropriate.

(4) Once the Department approves startup and shutdown procedures, the owner or operator does not have to notify the Department of a planned startup or shutdown event unless it results in excess emissions.

(5) When notice is required by section (4) of this rule, it must be made in accordance with OAR 340-214-0330(1)(a).

(6) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.

(7) No startups or shutdowns that may result in excess emissions associated with the approved procedures in section (3) of this rule are allowed during any period in which an Air Pollution



Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM<sub>10</sub> Nonattainment Areas.

(8) The owner or operator is subject to the requirements under All Other Excess Emissions in OAR 340-214-0330 if the owner or operator fails to obtain Department approval of start-up and shutdown procedures in accordance with section (2) of this rule.

*State effective: 11/8/2007; EPA approval: 12/27/2011, 76 FR 80747; EPA effective: 1/26/2012*

### **340-214-0320 Scheduled Maintenance**

(1) If the owner or operator anticipates that shutdown, by-pass, or operation at reduced efficiency of air pollution control equipment for necessary scheduled maintenance may result in excess emissions, the owner or operator must obtain prior Department authorization of procedures that will be used. The owner or operator must submit a written application for approval of new procedures or modifications to existing procedures. The application must be submitted in time for the Department to receive it at least 72 hours before the first occurrence of a maintenance event to which the procedures apply. The application must:

(a) Explain the need for maintenance, including why it would be impractical to shut down the source operation during the period, and why the by-pass or reduced efficiency could not be avoided through better scheduling for maintenance or through better operation and maintenance practices;

(b) Identify the specific production or emission control equipment or system to be maintained;

(c) Identify the nature of the air contaminants likely to be emitted during the maintenance period and the estimated amount and duration of the excess emissions, including measures such as the use of overtime labor and contract services and equipment, that will be taken to minimize the length of the maintenance period;

(d) Identify specific procedures to be followed that will minimize excess emissions at all times during the scheduled maintenance.

(2) The Department 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. The owner or operator must record all excess emissions in the excess emissions log, as required in OAR 340-214-0340(3). Approval-of-the above procedures does not shield the owner or operator from an enforcement action, but the Department will consider whether the procedures were followed in determining whether an enforcement action is appropriate.

(3) Once the Department approves the maintenance procedures the owner or operator does not have to notify the Department of a scheduled maintenance event unless it results in excess emissions.

(4) When required by section (3) of this rule, notification must be made in accordance with OAR 340-214-0330(1)(a).

(5) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.

(6) No scheduled maintenance associated with the approved procedures in section (2) of this rule, that is likely to result in excess emissions, may occur during any period in which an, Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM<sub>10</sub> Nonattainment Areas.

(7) The owner or operator is subject to the requirements under All Other Excess Emissions in OAR 340-214-0330 if the owner or operator fails to obtain Department approval of maintenance procedures in accordance with section (1) of this rule.

*State effective: 11/8/2007; EPA approval: 12/27/2011, 76 FR 80747; EPA effective: 1/26/2012*

### **340-214-0330 All Other Excess Emissions**

(1) For all other excess emissions not addressed in OAR 340-214-310, 340-214-320, or 340-214-360, the following requirements apply:

(a) The owner or operator of a large source, as defined by OAR 340-214-0010, must immediately notify the Department 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 the Department of excess emissions events unless otherwise required by a permit condition, written notice by the Department, 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 Department may require that an owner or operator immediately reduce or cease operation of the equipment or facility until the condition causing the excess emissions has been corrected or brought under control. The Department will consider the following factors:

(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 the Department approves procedures to minimize excess emissions until the condition causing the excess emissions is corrected or brought under control. The Department will consider the following before approving the procedures:

(a) Why the condition(s) 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 OAR 340-214-0320(1)(b), (c), and(d), as appropriate

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

*State effective: 11/8/2007; EPA approval: 12/27/2011, 76 FR 80747; EPA effective: 1/26/2012*

### **340-214-0340 Reporting Requirements**

(1) For any excess emissions event at a source with a Title V permit and for any other source as required by permit, the owner or operator shall submit a written report of excess emissions for each calendar day of the event. The report must be submitted within 15 days of the date of the event and include the following:

(a) The date and time of the beginning of the excess emissions event and the duration or best estimate of the time until return to normal operation;

(b) The date and time the owner or operator notified the Department of the event;

(c) The equipment involved;

(d) Whether the event occurred during planned startup, planned shutdown, scheduled maintenance, or as a result of a breakdown, malfunction, or emergency;

(e) Steps taken to mitigate emissions and corrective actions taken, including whether the approved procedures for a planned startup, shutdown, or maintenance activity were followed;

(f) The magnitude and duration of each occurrence of excess emissions during the course of an event and the increase over normal rates or concentrations as determined by continuous monitoring or a best estimate (supported by operating data and calculations);

(g) The final resolution of the cause of the excess emissions; and

(h) Where applicable, evidence supporting any claim that emissions in excess of technology based limits were due to an emergency pursuant to OAR 340-214-0360,

(2) Based on the severity of event, the Department may specify a shorter time period for report submittal.

(3) All source owners or operators must keep an excess emissions log of all planned and unplanned excess emissions. The log must include all pertinent information as required in section (1) of this rule and be kept by the owner or operator for five calendar years.

(4) At each annual reporting period specified in a permit, or sooner if the Department requires, the owner or operator must submit:

(a) A copy of the excess emissions log entries for the reporting period; unless previously submitted in accordance with section (1) of this rule, and

(b) Where applicable, current procedures to minimize emissions during startup, shutdown, or maintenance as outlined in OAR 340-214-0310 and 340-214-0320. The owner or operator must specify in writing whether these procedures are new, modified, or have already been approved by the Department.

*State effective: 11/8/2007; EPA approval: 12/27/2011, 76 FR 80747; EPA effective: 1/26/2012*

### **340-214-0350 Enforcement Action Criteria**

In determining whether to take enforcement action for excess emissions, the Department considers, based upon information submitted by the owner or operator, the following:

(1) Whether the owner or operator met the notification, recordkeeping and reporting requirements of OAR 340-214-0330 and OAR 340-214-0340;

(2) Whether during the period of the excess emissions event the owner or operator took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other permit requirements.

(3) Whether the owner or operator took the appropriate remedial action.

(4) Whether the event was due to the owner's or operator's negligent or intentional operation. For the Department to find that an incident of excess emissions was not due to the owner's or operator's negligent or intentional operation, the Department may ask the owner or operator to demonstrate that all of the following conditions were met:

(a) The process or handling equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

(b) Repairs or corrections were made in an expeditious manner when the owner or operator knew or should have known that emission limits were being or were likely to be exceeded.

"Expeditious manner" may include activities such as use of overtime labor or contract labor and equipment that would reduce the amount and duration of excess emissions;

(c) The event was not one in a recurring pattern of incidents that indicate inadequate design, operation, or maintenance.

(5) Whether the owner or operator was following procedures approved in OAR 340-214-0310 or OAR 340-214-0320 at the time of the excess emissions.

*State effective: 11/8/2007; EPA approval: 12/27/2011, 76 FR 80747; EPA effective: 1/26/2012*

### **340-214-0360 Emergency as an Affirmative Defense**

(1) An emergency constitutes an affirmative defense to penalty actions due to noncompliance with technology-based emission limits if the owner or operator notifies the Department immediately of the emergency condition and demonstrates through properly signed, contemporaneous operating logs, excess emission logs, or other relevant evidence:

(a) that an emergency occurred and caused the excess emissions;

(b) the cause(s) of the emergency;

(c) the facility was at the time being properly operated;

(d) during the occurrence of the emergency, the owner or operator took all reasonable steps to minimize levels of excess emissions; and

(e) the notification to the Department contained a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(2) The person seeking to establish the occurrence of an emergency has the burden of proof by a preponderance of the evidence.

(3) This provision is in addition to any emergency or any other excess emissions provision contained in any applicable requirement.

*State effective: 11/8/2007; EPA approval: 12/27/2011, 76 FR 80747; EPA effective: 1/26/2012*

## **DIVISION 216**

### **AIR CONTAMINANT DISCHARGE PERMITS**

### **340-216-0010 Purpose**

This division prescribes the requirements and procedures for obtaining Air Contaminant Discharge Permits (ACDPs) pursuant to ORS 468A.040 through 468A.060 and related statutes for sources of air contaminants.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 OAR 340-218-0020 or 340-224-0010. Sources referred to in OAR 340-216-8010 are subject to fees in OAR 340-216-8020.

(2) Sources in any one of the categories in OAR 340-216-8010 must obtain a permit. If a source meets the requirements of more than one of the source categories and the source is not eligible for a Basic ACDP or a General ACDP that has been authorized by DEQ, then the source must obtain a Simple or Standard ACDP. Source categories are not listed in alphabetical order.

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

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

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

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

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

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

(3) No person may construct, install, establish, develop or operate any air contaminant source listed in OAR 340-216-8010 without first obtaining an Air Contaminant Discharge Permit (ACDP) from DEQ or LRAPA and keeping a copy onsite at all times, unless otherwise deferred from the requirement to obtain an ACDP in subsection (3)(b) or DEQ has granted an exemption from the requirement to obtain an ACDP under subsection (3)(f). 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) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both DEQ and LRAPA. DEQ or LRAPA, depending where the portable source's corporate offices are located, will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, DEQ will be responsible for issuing the permit.

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

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

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

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

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

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

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

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

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

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

### **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 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 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 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. Any source required to obtain a Simple ACDP may 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 for all regulated pollutants emitted at more than the de minimis emission level according to OAR 340 division 222;
- (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 obtain 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 or Generic PSEL levels, whichever are applicable, as specified in OAR 340 division 222;

(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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-216-0030 Definitions**

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

(1) “Basic technical modification” includes, but is not limited to changing source test dates if the equipment is not being operated, and similar changes.

(2) “Complex technical modification” includes, but is not limited to incorporating a complex new compliance method into a permit, adding a complex compliance method or monitoring for an emission point or control device not previously addressed in a permit, adding a complex new applicable requirement into a permit due to a change in process or change in rules, and similar changes.

(3) “Moderate technical modification” includes, but is not limited to adding a simple compliance method or monitoring for an emission point or control device not previously addressed in a permit, revising monitoring and reporting requirements other than dates and frequency, adding a new applicable requirement into a permit due to a change in process or change in rules, incorporating NSPS and NESHAP requirements, and similar changes.

(4) “Non-technical modification” means name changes, change of ownership, correction of typographical errors and similar administrative changes.

(5) “Simple technical modification” includes, but is not limited to modifying a compliance method to use different emission factors or process parameters, changing reporting dates or frequency, and similar changes.

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

### **340-216-0040 Application Requirements**

(1) New Permits.

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

- (A) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business, Standard Industrial Classification (SIC) code;
  - (B) The name and phone number of a local person responsible for compliance with the permit;
  - (C) The name of a person authorized to receive requests for data and information;
  - (D) A description of the production processes and related flow chart;
  - (E) A plot plan showing the location and height of air contaminant sources. The plot plan must also indicate the nearest residential or commercial property;
  - (F) The type and quantity of fuels used;
  - (G) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, or monthly and yearly rates, showing calculation procedures;
  - (H) Any information on pollution prevention measures and cross-media impacts the applicant wants DEQ to consider in determining applicable control requirements and evaluating compliance methods;
  - (I) Estimated efficiency of air pollution control devices under present or anticipated operating conditions;
  - (J) Where the operation or maintenance of air pollution control devices and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for DEQ to establish operational and maintenance requirements in OAR 340-226-0120(1) and (2);
  - (K) A Land Use Compatibility Statement signed by a local, city or county, planner either approving or disapproving construction or modification of the source, if required by the local planning agency;
  - (L) Any information required by OAR 340 divisions 224, 225 and 245, including but not limited to control technology and analysis, air quality impact analysis; and information related to offsets and net air quality benefit, if applicable; and
  - (M) Any other information requested by DEQ.
- (b) Applications for new permits must be submitted at least 60 days prior to when a permit is needed. When preparing an application, the applicant must also consider the timelines provided in paragraph (2)(b), as well as OAR 340-245-0030, Cleaner Air Oregon submittal and payment deadlines, and OAR 340-224-0030, permit applications subject to NSR, to allow DEQ adequate time to process the application and issue a permit before it is needed.

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

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

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

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

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

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

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

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

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

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

(4) Any owner or operator who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

(5) The application must be completed in full and signed by the applicant or the applicant's legally authorized representative.

(6) Two copies of the application are required, unless otherwise requested by DEQ. At least one of the copies must be a paper copy, but the others may be in any other format, including electronic copies, upon approval by DEQ.

(7) A copy of permit applications subject to Major NSR under OAR 340 division 224, including all supplemental and supporting information, must also be submitted directly to the EPA.

(8) The name of the applicant must be the legal name of the facility or the owner's agent or the lessee responsible for the operation and maintenance of the facility. The legal name must be registered with the Secretary of State Corporations Division.

(9) All applications must include the appropriate fees as specified in OAR 340-216-8020.

(10) Applications that are obviously incomplete, unsigned, improperly signed, or lacking the required exhibits or fees will be rejected by DEQ and returned to the applicant for completion.

(11) Within 15 days after receiving the application, DEQ will preliminarily review the application to determine the adequacy of the information submitted:

(a) If DEQ determines that additional information is needed, DEQ will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request;

(b) If, in the opinion of DEQ, additional measures are necessary to gather facts regarding the application, DEQ will notify the applicant that such measures will be instituted along with the timetable and procedures to be followed. The application will not be considered complete for processing until the necessary additional fact-finding measures are completed. When the information in the application is deemed adequate for processing, DEQ will so notify the applicant.

(12) If at any time while processing the application, DEQ determines that additional information is needed, DEQ will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request.

(13) If, upon review of an application, DEQ determines that a permit is not required, DEQ will so notify the applicant in writing. Such notification is a final action by DEQ on the application.

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

### **304-216-0052 Construction ACDP**

(1) Purpose. A Construction ACDP is a permit for approval of Type 3 construction or modification changes as specified in OAR 340-210-0225 and 340-210-0240. The Construction ACDP includes requirements for the construction or modification of stationary sources or air pollution control devices and does not by itself provide authorization to operate the new

construction or modification. A new or modified Standard ACDP or Oregon Title V Operating Permit is required before operation of the new construction or modification. A Construction ACDP may be used for the following situations:

(a) For complex construction or modification projects that require an extended period of time to construct, the Construction ACDP may provide construction approval faster than issuance of a Standard ACDP or modified Standard ACDP because the operating requirements would not need to be included in the permit.

(b) For Oregon Title V Operating Permit sources, the Construction ACDP may include the requirements of OAR 340-218-0050 and follow the external review procedures in OAR 340-218-0210 and 340-218-0230 so that the requirements may later be incorporated into the Oregon Title V Operating Permit by an administrative amendment. If the applicant elects to incorporate the Construction ACDP by administrative amendment, all of the application submittal, permit content, and permit issuance requirements of OAR 340 division 218 must be met for the Construction ACDP.

(2) Application requirements. Any person requesting a Construction ACDP must:

(a) Submit an application according to OAR 340-216-0040 and provide the information specified in OAR 340-216-0040(1) as it relates to the proposed new construction or modification; and

(b) Provide a list of any applicable requirements related to the new construction or modification.

(3) Fees. Applicants for a Construction ACDP must pay the fees in OAR 340-216-8020.

(4) Permit content. A Construction ACDP must include at least the following:

(a) A requirement that construction must commence within 18 months after the permit is issued if required by OAR 340-224-0030(4);

(b) A requirement to construct according to approved plans;

(c) A requirement to comply with all applicable requirements;

(d) Emission limits for affected stationary sources;

(e) Performance standards for affected stationary sources and air pollution control devices;

(f) Performance test requirements;

(g) Monitoring requirements, if specialized equipment is required (e.g., continuous monitoring systems);

(h) Notification and reporting requirements (construction status reports, startup dates, source test plans, CEMS performance specification testing plans, etc.);

- (i) General ACDP conditions for incorporating generally applicable requirements;
  - (j) A requirement to modify the operating permit before commencing operation of the new construction or modification;
  - (k) A permit expiration date of no more than 5 years; and
  - (l) Oregon Title V Permit requirements as specified in OAR 340-218-0050, if the applicant requests the external review procedures in OAR 340-218-0210 and 340-218-0230.
- (5) Permit issuance procedures:
- (a) A Construction ACDP requires that DEQ provide public notice according to OAR 340 division 209 as a Category III permit action.
  - (b) For sources subject to the Oregon Title V Operating Permit program, the applicant may ask for the external review procedures in OAR 340-218-0210 and 340-218-0230 in addition to the requirements of OAR 340 division 209 to allow the Construction ACDP to be incorporated into the Oregon Title V Operating Permit at a later date by an administrative amendment provided the requirements of subsection (1)(b) are met.
  - (c) Issuance of a modified Construction ACDP requires the following public notice, as applicable:
    - (A) Public notice as a Category I permit action under OAR 340 division 209 for non-technical modifications and basic and simple technical modifications; or
    - (B) Public notice as a Category II permit action under OAR 340 division 209 for moderate and complex technical modifications.
- (6) Construction ACDPs may not be renewed.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-216-0054 Short Term Activity ACDPs**

- (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).
- (2) Fees. Applicants for a Short Term Activity ACDP must pay the fees in OAR 340-216-8020.
- (3) 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.

(4) Permit issuance public notice procedures. A Short Term Activity ACDP requires public notice as a Category I permit action under OAR 340 division 209.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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) Fees. Applicants for a new Basic ACDP must pay the fees in OAR 340-216-8020.

(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 will require that a simplified annual report be submitted to DEQ; and

(d) A Basic ACDP may be issued for a period not to exceed ten years.

(4) Permit issuance public notice procedures. A Basic ACDP requires public notice as a Category I permit action according to OAR 340 division 209.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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.

(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 for all regulated pollutants emitted at more than the de minimis emission level according to OAR 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 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 340 division 209.

(d) DEQ will retain all General ACDPs on file and make them available for public review at DEQ's headquarters.

(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 OAR 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;
- (T) Gasoline dispensing facilities — stage I — Fee Class Five;
- (U) Gasoline dispensing facilities — stage II — Fee Class Four;
- (V) Wood preserving — Fee Class Four;
- (W) 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);
- (X) Metal fabrication and finishing — with only one of the operations listed in subparagraphs (2)(b)(W)(i) through (iii)— Fee Class One:

(Y) Metal fabrication and finishing — with none of the operations listed in subparagraphs (2)(b)(W)(i) through (iii) — Fee Class Four;

(Z) Plating and polishing — Fee Class One;

(AA) Surface coating operations — Fee Class One;

(BB) Paint stripping — Fee Class One;

(CC) Aluminum, copper, and nonferrous foundries — Fee Class Two;

(DD) Paints and allied products manufacturing — Fee Class Two; and

(EE) 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 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 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 source must obtain a Simple or Standard ACDP.

(E) 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.

(3) 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 General ACDP for that category and assign all existing General ACDP permit holders to the new General ACDP.

4) Rescission. DEQ may rescind an individual source's assignment to a General ACDP if the source no longer meets the requirements of the permit. In such case, the source 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 fails to submit an application for a Simple or Standard ACDP, DEQ will rescind the source's assignment to the General ACDP.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-216-0062 General ACDP Attachments**

(1) Purpose. This rule allows a source to be assigned to one General ACDP and one or more General ACDP Attachments, as long as the General ACDP and General ACDP Attachment contain all requirements applicable to the source. This would allow a source to avoid having to obtain a more costly Simple or Standard ACDP if there are no General ACDPs that contain all requirements applicable to the source.

(2) Applicability.

(a) DEQ may issue a General ACDP Attachment 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 Attachment;

(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP Attachment;

(D) The regulated pollutants emitted are of the same type for all covered operations. If a General ACDP and a General ACDP Attachment cannot address all activities at a source, the owner or operator of the source must apply for a Simple or Standard ACDP according to this division.

(b) Attachment content. Each General ACDP Attachment must include the following:

(A) All relevant requirements for the operations covered by the General ACDP Attachment, excluding any federal requirements not adopted by the EQC;

(B) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the applicable emissions limits and standards; and

(C) An attachment expiration date not to exceed 10 years from the date of issuance.

(c) Attachment issuance public notice procedures: A General ACDP Attachment requires public notice as a Category II permit action according to OAR 340 division 209.

(d) DEQ will retain all General ACDP Attachments on file and make them available for public review at DEQ's headquarters.

(3) Source assignment:

(a) Application requirements. Any person requesting to be assigned to a General ACDP Attachment must submit a written application for each requested General ACDP Attachment that specifies the requested General ACDP Attachment and shows that the source qualifies for the requested General ACDP Attachment.

(b) Fees. Applicants must pay the fees in OAR 340-216-8020 for each assigned General ACDP Attachment. The fee class for each General ACDP Attachment is Fee Class Five.

(c) Assignment procedures:

(A) Assignment to a General ACDP Attachment is a Category I permit action and is subject to the Category I public notice requirements under OAR 340 division 209.

(B) A person is not a permittee under the General ACDP Attachment until DEQ assigns the General ACDP Attachment to the person.

(C) Assignment to a General ACDP Attachment terminates when the General ACDP Attachment expires or is modified, terminated or revoked.

(D) A source may not be assigned to a General ACDP Attachment for a source category in a higher annual fee class than the General ACDP to which the source is currently assigned. Instead a source must be reassigned to the General ACDP for the source category in the higher annual fee class according to OAR 340-216-0060(2)(c)(E) and may be assigned to one or more General ACDP Attachments associated with source categories in an equal or lower annual fee class.

(d) If all activities at a source cannot be addressed by a General ACDP and General ACDP Attachments, the owner or operator of the source must apply for a Simple or Standard ACDP according to this division.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-216-0064 Simple ACDPs**

(1) Application Requirements. Any person requesting a new, modified, or renewed Simple ACDP must submit an application according to OAR 340-216-0040.

(2) 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 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

i) 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.

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 4. Late fees start upon issuance of the initial invoice. In this case, DEQ will issue a new invoice specifying applicable fees.

(3) 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 for all regulated pollutants emitted at more than the de minimis emission level according to OAR 340 division 222;

(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.

(4) Permit issuance public notice procedures:

(a) Issuance of a new or renewed Simple ACDP requires public notice as a Category II permit according to OAR 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 340 division 209; or

(B) Public notice as a Category II permit action for moderate and complex technical modifications according to OAR 340 division 209.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 or Generic PSEL levels, whichever are applicable, under OAR 340 division 222;

(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.

(4) Permit issuance procedures.

(a) Issuance of a new or renewed Standard ACDP requires public notice under OAR 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 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 340 division 224.

(b) Issuance of a modified Standard ACDP requires public notice under OAR 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 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 NSR under OAR 340 division 224.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 requires public notice as a Category II permit action under OAR 340 division 209, except that 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-216-0070 Permitting a Source with Multiple Activities or Processes at a Single Adjacent or Contiguous Site**

A single or contiguous site containing activities or processes that are covered by more than one General ACDP, or a source that contains processes or activities listed in more than one part of

OAR 340-216-8010 may obtain a Standard ACDP, even if not otherwise required to obtain a Standard ACDP under this division.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-216-0082 Termination 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 has been submitted; or

(B) Another type of permit, ACDP or Oregon Title V Operating Permit, has been issued authorizing operation of the source.

(b) If a timely and complete renewal 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. A permit is automatically terminated upon:**

(a) Issuance of a renewal or new ACDP for the same activity or operation;

(b) Written request of the permittee, if DEQ determines that a permit is no longer required;

(c) Failure to submit a timely application for permit renewal. Termination is effective on the permit expiration date; or

(d) Failure to pay annual fees within 90 days of invoice by DEQ, unless prior arrangements for payment have been approved in writing by DEQ.

(3) 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.

#### **(4) 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 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 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-216-0084 Department Initiated Modification**

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. 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-216-0090 Sources Subject to ACDPs and Fees**

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

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

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

### **340-216-0094 Temporary Closure**

(1) A permittee that temporarily suspends activities for which an ACDP is required may apply for a fee reduction due to temporary closure. However, the anticipated period of closure must exceed six months and must not be due to regular maintenance or seasonal limitations.

(2) DEQ will prorate annual fees for temporary closure based on the length of the closure in a calendar year, but will not be less than one half of the regular annual fee for the source.

(3) A source who has received Department approval for payment of the temporary closure fee must obtain authorization from DEQ prior to resuming permitted activities. An owner or operator of the source must submit written notification, together with the prorated annual fee for the remaining months of the year, to DEQ at least thirty (30) days before startup and specify in the notification the earliest anticipated startup date.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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      Natural gas and propane fired boilers of 10 or more MMBTU/hour but less than 30 MMBTU/hour heat input constructed after June 9, 1989 that 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 OAR 340 division 232.
- 2 Aluminum, copper, and other nonferrous foundries subject to an area source NESHAP under OAR 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 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 buildingboard mills.
- 15 Calcium carbide manufacturing.
- 16 Can or drum coating subject to RACT as regulated by OAR 340 division 232.<sup>2</sup>
- 17 Cement manufacturing.
- 18 Cereal preparations and associated grain elevators 10,000 or more tons/year throughput.<sup>1</sup>
- 19 Charcoal manufacturing.
- 20 Chlorine and alkali manufacturing.
- 21 Chrome plating and anodizing subject to a NESHAP under OAR 340 division 244.
- 22 Clay ceramics manufacturing subject to an area source NESHAP under OAR 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 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 340 division 244.
- 30 Flatwood coating regulated by OAR division 232.<sup>2</sup>
- 31 Flexographic or rotogravure printing subject to RACT under OAR 340 division 232.<sup>2</sup>
- 32 Flour, blended and/or prepared and associated grain elevators 10,000 or more tons/year throughput.<sup>1</sup>
- 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<sup>3</sup>.
- 36 Glass and glass container manufacturing subject to a NSPS under OAR 340 division 238 or a NESHAP under OAR 340 division 244.
- 37 Grain elevators used for intermediate storage 10,000 or more tons/year throughput.<sup>1</sup>
- 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 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 340 division 232.<sup>2</sup>
- 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 340 division 232.
- 49 Metal fabrication and finishing operations subject to an area source NESHAP under OAR 340 division 244, excluding facilities that meet all the following:
- a. Do not perform any of the operations listed in OAR 340-216-0060(2)(b)(W)(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 container manufacturing.
- 52 Motor coach manufacturing.
- 53 Motor vehicle and mobile equipment surface coating operations subject to an area source NESHAP under OAR 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  $\frac{1}{2}$  or more tons per year emissions of any one criteria pollutant, sources in this category with less than  $\frac{1}{2}$  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 340 division 244.
- 59 Paint stripping and miscellaneous surface coating operations subject to an area source NESHAP under OAR 340 division 244, excluding paint stripping and miscellaneous surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year.



- 60 Paper or other substrate coating subject to RACT under OAR 340 division 232.<sup>2</sup>
- 61 Particleboard manufacturing, including strandboard, flakeboard, and waferboard.
- 62 Perchloroethylene dry cleaning operations subject to an area source NESHAP under OAR 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 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 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.<sup>1</sup>
- 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 340 division 232.<sup>2</sup>

- 79 Surface coating operations with actual emissions of VOCs 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 5 or more tons per year of direct PM<sub>2.5</sub> or PM<sub>10</sub> if located in a PM<sub>2.5</sub> or PM<sub>10</sub> nonattainment or maintenance area, or 10 or more tons per year of any single criteria pollutant if located in any part of the state.<sup>4</sup>
- 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.
- 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 340 division 232, BACT or LAER under OAR 340 division 224, a NESHAP under OAR 340 division 244, a NSPS under OAR 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.

<sup>1</sup> Applies only to Special Control Areas.

<sup>2</sup> Portland AQMA, Medford-Ashland AQMA or Salem-Keizer in the SKATS only

<sup>3</sup> "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.

<sup>4</sup> 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.

*State effective: 9/21/2020; EPA approval: 5/12/2022, 87 FR 29046; EPA effective: 6/13/2022*

### 340-216-8020 Table 2 – Air Contaminant Discharge Permits

<b>Table 2</b> <b>OAR 340-216-0020</b>		
<b>Part 1.</b>	<b>Initial Permitting Application Fees: (in addition to first annual fee)</b>	
a.	Short Term Activity ACDP	\$3,600.00
b.	Basic ACDP	\$144.00
c.	Assignment to General ACDP <sup>1</sup>	\$1,440.00
d.	Simple ACDP	\$7,200.00
e.	Construction ACDP	\$11,520.00
f.	Standard ACDP	\$14,400.00
g.	Standard ACDP (Major NSR or Type A State NSR)	\$50,400.00
<sup>1</sup> 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.		
<b>Part 2.</b>	<b>Annual Fees: (due 12/1<sup>1</sup> for 1/1 to 12/31 of the following year)</b>	
a.	Short Term Activity ACDP	\$NA
b.	Basic ACDP	\$432.00
c.	General ACDP	
	(A) Fee Class One	\$864.00
	(B) Fee Class Two	\$1555.00
	(C) Fee Class Three	\$2246.00
	(D) Fee Class Four	\$432.00
	(E) Fee Class Five	\$144.00
	(F) Fee Class Six	\$288.00
d.	Simple ACDP	

<b>Table 2</b> <b>OAR 340-216-0020</b>		
	(A) Low Fee	\$2304.00
	(B) High Fee	\$4608.00
e.	Standard ACDP	\$9216.00
f.	Greenhouse Gas Reporting, as required by OAR 340, Division 215	12.5% of the applicable annual fee in Part 2
1. DEQ may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.		
<b>Part 3.</b>	<b>Cleaner Air Oregon Annual Fees: (Due date 12/1 for 1/1 to 12/31 of the following year)</b>	
a.	Basic ACDP	\$151.00
b.	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 Sex	\$100.00
c.	Simple ACDP	
	(A) Low Fee	\$806.00
	(B) High Fee	\$1,612.00
d.	Standard ACDP	\$3,225.00
2. DEQ may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.		
<b>Part 4.</b>	<b>Specific Activity Fees:</b>	
a.	Non-Technical Permit Modification <sup>1</sup>	\$432.00

<b>Table 2</b> <b>OAR 340-216-0020</b>		
b.	Basic Technical Permit Modification	\$432.00
c.	Simple Technical Permit Modification	\$1,440.00
d.	Moderate Technical Permit Modification	\$7,200.00
e.	Complex Technical Permit Modification	\$14,400.00
f.	Major NSR Modification	\$ 50,400.00
g.	Modeling Review (outside PSD/NSR)	\$7,200.00
h.	Public Hearing at Source's Request	\$2,880.00
i.	State MACT Determination	\$7,200.00
j.	Compliance Order Monitoring <sup>2</sup>	\$144.00/month
<b>Part 5.</b>	<b>Late Fees:</b>	
a.	8-31 days late	5%
b.	31-60 days late	10%
c.	61 or more days late	20%
<sup>1</sup> 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). <sup>2</sup> 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.		

*State effective: 11/16/2018; EPA approval: 11/31/2019, 84 FR 58324; EPA effective: 12/02/2019*

## DIVISION 222

### STATIONARY SOURCE PLANT SITE EMISSION LIMITS

#### 340-222-0010 Policy

The EQC recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of permit holders. 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 Title V sources are subject to PSELs for all regulated pollutants listed in the definition of SER in OAR 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 toxics listed in OAR 340 division 246; except that PSELs are required for pollutants identified in this subsection that are also listed in the definition of SER, OAR 340-200-0020.
- (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.

(5) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-222-0030 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **CRITERIA FOR ESTABLISHING PLANT SITE EMISSION LIMITS**

### **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 OAR 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 340 division 224.

(6) PSELs must include aggregate insignificant emissions, if applicable.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*



### **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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-222-0041 Source Specific Annual PSEL**

- (1) For sources with potential to emit less than the SER that request a source specific PSEL, the source specific PSEL will be set equal to the generic PSEL level.
- (2) 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 (3) or (4).
- (3) The initial source specific PSEL for PM<sub>2.5</sub> 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 PM<sub>2.5</sub> fraction of the PM<sub>10</sub> PSEL in effect on May 1, 2011.
  - (a) Any source with a permit in effect on May 1, 2011 is eligible for an initial PM<sub>2.5</sub> PSEL without being otherwise subject to OAR 340-222-0041(4).
  - (b) For a source that had a permit in effect on May 1, 2011 but later needs to correct its PM<sub>10</sub> PSEL that was in effect on May 1, 2011 due to more accurate or reliable information, the corrected PM<sub>10</sub> PSEL will be used to correct the initial PM<sub>2.5</sub> PSEL.
  - (i) Correction of a PM<sub>10</sub> PSEL will not by itself trigger OAR 340-222-0041(4) for PM<sub>2.5</sub>.
  - (ii) Correction of a PM<sub>10</sub> PSEL could result in further requirements for PM<sub>10</sub> in accordance with all applicable regulations.
  - (c) If after establishing the initial PSEL for PM<sub>2.5</sub> in accordance with this rule and establishing the initial PM<sub>2.5</sub> 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 OAR 340-222-0041(4).
- (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 340 division 224 have been satisfied, except that 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.

(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.

(6) For sources that meet the criteria in subsections (a), (b) and (c), the requirements of OAR 340-222-0041(4) 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(4).

(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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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. (A) the lesser of the short term capacity or the current permit's short term PSEL, if each is greater than or equal to the short term SER; or

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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 340 division 224.

(a) The initial PM<sub>2.5</sub> 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 PM<sub>2.5</sub>, a source's initial netting basis is equal to the baseline emission rate.

(b) For PM<sub>2.5</sub>, a source's initial netting basis is equal to the overall PM<sub>2.5</sub> fraction of the PM<sub>10</sub> PSEL in effect on May 1, 2011 multiplied by the PM<sub>10</sub> netting basis in effect on May 1, 2011. DEQ may increase the initial PM<sub>2.5</sub> netting basis by not more than 5 tons to ensure that the PM<sub>2.5</sub> PSEL does not exceed the PM<sub>2.5</sub> netting basis by more than the PM<sub>2.5</sub> SER.

(A) Any source with a permit in effect on May 1, 2011 is eligible for a PM<sub>2.5</sub> netting basis without being otherwise subject to OAR 340-222-0041(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(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 that has a generic PSEL in a permit; 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 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 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 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 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 emission 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).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-222-0048 Baseline Period and Baseline Emission Rate**

(1) The baseline period used to calculate the baseline emission rate is either:

(a) For any regulated pollutant other than greenhouse gases and PM<sub>2.5</sub>, any consecutive 12 calendar month period during the calendar years 1977 or 1978. DEQ may allow the use of a prior time period upon a determination that it is more representative of normal source operation.

(b) For greenhouse gases, any consecutive 12 calendar month period during the calendar years 2000 through 2010.

(c) For a pollutant that becomes a regulated pollutant subject to OAR 340 division 224 after May 1, 2011, any consecutive 12 calendar month period within the 24 months immediately preceding the pollutant's designation as a regulated pollutant if a baseline period has not been defined for the regulated pollutant.

(2) A baseline emission rate will be established only for those regulated pollutants subject to OAR 340 division 224.

(3) A baseline emission rate will not be established for PM<sub>2.5</sub>.

(4) The baseline emission rate for greenhouse gases, on a CO<sub>2</sub>e basis, 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.

(5) For a pollutant that becomes a regulated pollutant subject to OAR 340 division 224 after May 1, 2011, the initial baseline emission rate is the actual emissions of that regulated pollutant during the baseline period.

(6) The baseline emission rate will be recalculated only under the following circumstances:

(a) For greenhouse gases, if actual emissions are reset in accordance with OAR 340-222-0051(3);

(b) If a material mistake or an inaccurate statement was made in establishing the production basis for the baseline emission rate;

(c) If a more accurate or reliable emission factor is available; or

(d) If emissions units that were previously not included in baseline emission rate must be included as a result of rule changes.

(7) The baseline emission rate is not affected if emission reductions are required by rule, order, or permit condition.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-222-0051 Actual Emissions**

(1) A source's actual emissions as of the baseline period are the sum total of the actual emissions from each part of the source for each regulated pollutant. The actual emissions as of the baseline period will be determined to be:

(a) Except as provided in subsections (b) and (c) and section (2), the average rate at which the source actually emitted the regulated pollutant during normal source operations over an applicable baseline period;

(b) The source specific mass emissions limit included in a source's permit that was effective on Sep. 8, 1981 if such emissions are within 10% of the actual emissions calculated under subsection (a); or

(c) The potential to emit of the source or part of a source as specified in paragraphs (A) and (B). The actual emissions will be reset if required in accordance with section (3).

(A) Any source or part of a source that had not begun normal operations during the applicable baseline period but was approved to construct and operate before or during the baseline period in accordance with OAR 340 division 210 or 216, or was not required to obtain approval to construct and operate before or during the applicable baseline period; or

(B) Any source or part of a source that will emit greenhouse gases that had not begun normal operations prior to Jan. 1, 2010, but was approved to construct and operate prior to Jan. 1, 2011 in accordance with OAR 340 division 210 or 216.

(2) For any source or part of a source or any modification of a source or part of a source that had not begun normal operations during the applicable baseline period, but was approved to construct and operate in accordance with OAR 340 division 210, 216 or 224, actual emissions of the source or part of the source equal the potential to emit of the source or part of the source on the date the source or part of the source was approved to construct and operate.

(3) For any source or part of a source whose actual emissions of greenhouse gases were determined pursuant to paragraph (1)(c)(B), and for all other sources of all other regulated pollutants that are permitted in accordance with the Major NSR rules in OAR 340 division 224 on or after May 1, 2011, the potential to emit of the source or part of the source will be reset to actual emissions as follows:

(a) Except as provided in subsection (b), ten years from the end of the applicable baseline period under paragraph (1)(c)(B) or ten years from the date the permit is issued under section (2), or an earlier time if requested by the source in a permit application involving public notice, DEQ will reset actual emissions of the source or part of the source to equal the highest actual emission rate during any consecutive 12-month period during the ten year period or any shorter period if requested by the source. Actual emissions are determined as follows:

(A) The owner or operator must select a consecutive 12-month period and the same 12-month period must be used for all affected regulated pollutants and all affected devices or emissions units; and

(B) The owner or operator must determine the actual emissions during that 12-month period for each device or emissions unit that was subject to Major NSR or Type A State NSR action under OAR 340 division 224, or for which the baseline emission rate is equal to the potential to emit.

(b) DEQ may extend the date of resetting by five additional years upon satisfactory demonstration by the source that construction is ongoing or normal operation has not yet been achieved.

(c) Any emission reductions achieved due to enforceable permit conditions based on OAR 340-226-0110 and 340-226-0120 are not included in the reset calculation required in subsection (a).

(4) Regardless of the PSEL compliance requirements specified in a permit, actual emissions from a source or part of a source may be calculated for any given 12 consecutive month period using data that is considered valid and representative of the source's or part of a source's emissions. Actual emissions must be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-222-0055 Unassigned Emissions**

(1) Purpose. The purpose of unassigned emissions is to track and manage the difference in the quantity of emissions between the netting basis and what the source could emit based on the facility's current physical and operational design.

(2) Establishing unassigned emissions.



(a) Unassigned emissions equal the netting basis minus the source's current PTE, minus any banked emission reduction credits. Unassigned emissions are zero if this result is negative.

(b) Unused capacity created after the effective date of this rule due to reduced potential to emit that is not banked or expired emission reduction credits (OAR 340-268-0030), increase unassigned emissions on a ton for ton basis.

(3) Maximum unassigned emissions.

(a) Except as provided in paragraph (c), unassigned emissions will be reduced to not more than the SER (OAR 340-200-0020) on July 1, 2007 and at each permit renewal following that date.

(b) The netting basis is reduced by the amount that unassigned emissions are reduced.

(c) In an AQMA where the EPA requires an attainment demonstration based on dispersion modeling, unassigned emissions are not subject to reduction under this rule.

(4) Using unassigned emissions.

(a) An existing source may use unassigned emissions for internal netting to allow an emission increase in accordance with the permit.

(b) A source may not bank unassigned emissions or transfer them to another source.

(c) A source may not use emissions that are removed from the netting basis, including emission reductions required by rule, order or permit condition under OAR 340-222-0046(3)(a)(C), for netting in any future permit actions.

(5) Upon renewal, modification or other reopening of a permit after July 1, 2002 the unassigned emissions will be established with an expiration date of July 1, 2007 for all unassigned emissions in excess of the SER. Each time the permit is renewed after July 1, 2007 the unassigned emissions will be established again and reduced upon the following permit renewal to no more than the SER for each regulated pollutant.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-222-0080 Plant Site Emission Limit Compliance**

(1) The permittee must monitor regulated pollutant emissions or other parameters that are sufficient to produce the records necessary for demonstrating compliance with the PSEL.

(2) The frequency of the monitoring and associated averaging periods must be as short as possible and consistent with that used in the compliance method.

(3)(a) For annual PSELs, the permittee must monitor appropriate parameters and maintain all records necessary for demonstrating compliance with the annual PSEL at least monthly and be able to determine emissions on a rolling 12 consecutive month basis.

(b) For short term PSELs, the permittee must monitor appropriate parameters and maintain all records necessary for demonstrating compliance with any short term PSEL at least as frequently as the short term PSEL averaging period.

(4) The applicant must specify in the permit application the method that will be used to determine compliance with the PSEL. DEQ will review the method and approve or modify, as necessary, to assure compliance with the PSEL. DEQ will include PSEL compliance monitoring methods in all permits that contain PSELs. Depending on source operations, one or more of the following methods may be acceptable:

(a) Continuous emissions monitors;

(b) Material balance calculations;

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

(d) Alternative production or process limits; and

(e) Other methods approved by DEQ.

(5) When annual reports are required, the permittee must include the emissions total for each consecutive 12 month period during the calendar year, unless otherwise specified by a permit condition.

(6) Regardless of the PSEL compliance requirements specified in a permit, actual emissions may be calculated in accordance with OAR 340-222-0051(4).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-222-0090 Combining and Splitting Sources and Changing Primary SIC Code**

(1) Two or more sources may combine into one source if the criteria in subsection (a) are met. When two or more sources combine into one source under this rule, the combined source is subject to the criteria in subsection (b).

(a) Two or more sources may combine into one source only if all of the following criteria are met:

(A) All individual sources that are being combined must be located within or impact the same airshed; and

(B) The combined source must have the same primary 4-digit SIC code as at least one of the individual sources that are being combined.

(b) The combined source is regulated as one source, subject to the following:

(A) The combined source netting basis is the sum of the individual sources' netting basis, provided that the netting basis of any individual source being combined may only be included in the combined source's netting basis if that individual source has a primary or secondary 2-digit SIC code that is the same as the primary or a secondary 2-digit SIC code of the combined source.

(B) The simple act of combining sources, without an increase over the combined PSEL, does not subject the combined source to Major or State NSR.

(C) If the combined source PSEL, without a requested increase over the existing combined PSEL, exceeds the combined netting basis plus the SER, the source may continue operating at the existing combined source PSEL without becoming subject to NSR until such time that the source requests an increase in the PSEL or the source is modified. If a source requests an increase in the PSEL or the source is modified, DEQ will evaluate whether NSR will be required.

(2) When one source is split into two or more separate sources, or when a source changes its primary activity (primary 2-digit SIC code):

(a) The netting basis and SER may be transferred to one or more resulting source or sources only if:

(A) The primary 2-digit SIC code of the resulting source is the same as one of the primary or secondary 2-digit SIC codes that applied at the original source; or

(B) The resulting source and the original source have different primary 2-digit SIC codes but DEQ determines the activities described by the two different primary 2-digit SIC codes are essentially the same.

(b) The netting basis and the SER for the original source are split amongst the resulting sources as requested by the original permittee.

(c) The amount of the netting basis that is transferred to the resulting source or sources may not exceed the potential to emit of the existing devices or emissions units involved in the split.

(d) The split of netting basis and SER must either:

(A) Be sufficient to avoid NSR for each of the newly created sources; or

(B) The newly created source that becomes subject to NSR must comply with the requirements of OAR 340 division 224 before beginning operation under the new arrangement.

(3) The owner or operator of the source, device or emissions unit must maintain records of physical changes and changes in the method operation occurring since the baseline period or most recent Major NSR or Type A State NSR action under OAR 340 division 224. These records must be included in any future evaluation under OAR 340-224-0025 (major modification).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 223**

### **REGIONAL HAZE**

#### **340-223-0010 Purpose**

OAR 340-223-0020 through 340-223-0080 establish requirements for certain sources emitting air pollutants that reduce visibility and contribute to regional haze in Class I areas, for the purpose of implementing Best Available Retrofit Technology (BART) requirements and other requirements associated with the federal Regional Haze Rules in 40 CFR § 51.308, as in effect on December 9, 2010.

*State effective: 12/10/2010; EPA approval: 7/5/2011, 76 FR 38997; EPA effective: 8/4/2011*

#### **340-223-0020 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 OAR 340-200-0020, the definition in this rule applies to this division.

(1) “BART-eligible source” means any source determined by the Department to meet the criteria for a BART-eligible source established in Appendix Y to 40 CFR Part 51, “Guidelines for BART Determinations Under the Regional Haze Rule”, and in accordance with the federal Regional Haze Rules under 40 CFR § 51.308(e), as in effect on December 9, 2010.

(2) “Best Available Retrofit Technology (BART)” means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source or unit, the remaining useful life of the source or unit, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(3) “Deciview” means a measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The

deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements):

$$\text{Deciview haze index} = 10 \ln(b_{\text{ext}}/10 \text{ Mm}^{-1})$$

Where  $b_{\text{ext}}$  = the atmospheric light extinction coefficient, expressed in inverse megameters ( $\text{Mm}^{-1}$ ).

(4) “Dry sorbent injection pollution control system” means a pollution control system that reduces sulfur dioxide emissions by combining a dry alkaline reagent directly with the boiler exhaust gas stream to enable the reagent to adsorb sulfur dioxide and be collected by the existing electrostatic precipitator.

(5) “Subject to BART” means a BART-eligible source that based on air quality dispersion modeling causes visibility impairment equal to or greater than 0.5 deciview in any Class I area, at the 98th percentile for both a three-year period and one-year period.

(6) “Ultra-low sulfur coal” means coal that contains no more than 0.25 lb sulfur/mmBtu heat input on average.

*State effective: 12/10/2010; EPA approval: 7/5/2011, 76 FR 38997; EPA effective: 8/4/2011*

#### **340-223-0030 BART and Additional Regional Haze Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106)**

(1) Emissions limits:

(a) Between July 1, 2011 and December 31, 2020, nitrogen oxide emissions must not exceed 0.23 lb/mmBtu heat input as a 30-day rolling average, provided that:

(A) If the source submitted a complete application for construction and/or operation of pollution control equipment to satisfy the emissions limit in subsection (1)(a) at least eight months prior to the compliance date of July 1, 2011, and the Department has not approved or denied the application by the compliance date, the compliance date is extended until the Department approves or disapproves the application, but may not be extended to a date more than five years from the date that the United States Environmental Protection Agency approves a revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR 340-223-0030; and

(B) If it is demonstrated by December 31, 2011 that the emissions limit in subsection (1)(a) cannot be achieved with combustion controls, the Department by order may grant an extension of compliance to July 1, 2013.

(b) Except as provided in section (3) below:

(A) Between July 1, 2014 and June 30, 2018, sulfur dioxide emissions must not exceed 0.40 lb/mmBtu heat input as a 30-day rolling average; and

(B) Between July 1, 2018 and December 31, 2020, sulfur dioxide emissions must not exceed 0.30 lb/mmBtu heat input as a 30-day rolling average.

(c) Between July 1, 2014 and December 31, 2020, particulate matter emissions must not exceed 0.040 lb/mmBtu heat input as determined by compliance source testing.

(d) During periods of startup and shutdown, the following emissions limits apply instead of the limits in subsections (a) through (c):

(A) Sulfur dioxide emissions must not exceed 1.20 lb/mmBtu, as a 3-hour rolling average;

(B) Nitrogen oxide emissions must not exceed 0.70 lb/mmBtu, as a 3-hour rolling average; and

(C) Particulate matter emissions must be minimized to extent practicable pursuant to approved startup and shutdown procedures in accordance with OAR 340-214-0310.

(e) The Foster-Wheeler boiler at the source must permanently cease burning coal by no later than December 31, 2020. Notwithstanding the definition of netting basis in OAR 340-200-0020, and the process for reducing plant site emission limits in OAR 340-222-0043, the netting basis and PSELs for the boiler are reduced to zero upon the date on which the boiler permanently ceases burning coal, and prior to that date the netting basis and PSELs for the boiler apply only to physical changes or changes in the method of operation of the source for the purpose of complying with emission limits applicable to the boiler.

(2) Studies to evaluate compliance with the sulfur dioxide emissions limits in paragraphs (1)(b)(A)-(B), and the potential side effects of compliance with those limits, if required by section (3), must be completed as follows:

(a) A plan to evaluate the sulfur dioxide emissions limit in paragraph (1)(b)(A) must be submitted for Department approval by July 1, 2011, and the results of the evaluation must be submitted to the Department by July 1, 2013;

(b) A plan to evaluate the sulfur dioxide emissions limit in paragraph (1)(b)(B) must be submitted for Department approval by July 1, 2015, and the results of the evaluation must be submitted to the Department by July 1, 2017; and

(c) Each study pursuant to this section (2) must:

(A) Evaluate whether a dry sorbent injection pollution control system is technically infeasible, will prevent compliance with mercury emissions limits under OAR 340-228-0606, or cause a significant air quality impact (as that term is defined in OAR 340-200-0020) for PM<sub>10</sub> or PM<sub>2.5</sub>;

(B) Evaluate a range of commercially available sorbent materials that could be used in a dry sorbent injection pollution control system to reduce sulfur dioxide emissions;

(C) Evaluate the potential for significant air quality impacts for PM<sub>10</sub> or PM<sub>2.5</sub> as follows:

(i) Perform modeling consistent with the requirements of OAR 340-225-0050(1) with screening meteorological data containing conservative meteorological assumptions; or

(ii) If modeling with screening meteorological data pursuant to subparagraph (i) demonstrates that significant air quality impacts for PM<sub>10</sub> or PM<sub>2.5</sub> will occur, perform modeling with site specific meteorological data obtained from the installation of a meteorological monitoring station, including one year of monitoring data for each study. The meteorological monitoring station must be installed, certified, operated and maintained, and the output of the meteorological monitoring station must be recorded, in accordance with a plan approved by the Department;

(D) Evaluate the use of other sulfur dioxide pollution control systems of equal or lower cost as a dry sorbent injection pollution control system, including but not limited to the use of ultra-low sulfur coal, if the study demonstrates that the use of a dry sorbent injection pollution control system is technically infeasible, will prevent compliance with mercury emissions limits under OAR 340-228-0606, or will cause a significant air quality impact (as that term is defined in OAR 340-200-0020) for PM<sub>10</sub> or PM<sub>2.5</sub>; and

(E) If applicable, propose an emissions limit for sulfur dioxide based on a 30-day rolling average that exceeds the limits listed in paragraphs (1)(b)(A)-(B), based upon the reduction of sulfur dioxide emissions to the maximum extent feasible through the use of a dry sorbent injection pollution control system or another sulfur dioxide pollution control system of equal or lower cost, including but not limited to the use of ultra-low sulfur coal, provided that the emissions limit may not exceed 0.55 lb/mmBtu heat input as a 30-day rolling average.

(3) Between July 1, 2014 and December 31, 2020, sulfur dioxide emissions may exceed the limit listed in paragraph (1)(b)(A) or (B), or both, if:

(a) Studies have been submitted pursuant to section (2);

(b) Compliance with the applicable emissions limit or limits would:

(A) Be technically infeasible;

(B) Prevent compliance with mercury emissions limits under OAR 340-228-0606; or

(C) Cause a significant air quality impact, as that term is defined in OAR 340-200-0020, for PM<sub>10</sub> or PM<sub>2.5</sub>;

(c) Sulfur dioxide emissions are otherwise reduced to the maximum extent feasible as described in subsection (2)(c); and

(d) The source's Oregon Title V Operating Permit is modified to include a federally enforceable permit limit reflecting the requirements of subsection (2)(c), prior to the compliance date for the sulfur dioxide emissions limit in paragraph (1)(b)(A) or (B) that will be exceeded; provided that if the source's Oregon Title V Operating Permit has not been modified prior to the applicable compliance date, sulfur dioxide emissions may exceed the emissions limit in paragraph (1)(b)(A) or (B) if the source submitted a complete application to modify its Oregon Title V Operating Permit at least eight months prior to the applicable compliance date and sulfur dioxide emissions do not exceed the emissions limit proposed in its application (which may not exceed 0.55 lb/mmBtu heat input as a 30-day rolling average).

(4) Compliance demonstration. Using the procedures specified in section (5) of this rule:

(a) Compliance with a 30-day rolling average limit must be demonstrated within 180 days of the compliance date specified in section (1) of this rule; and

(b) Compliance with any 30-day rolling average limit for sulfur dioxide that may be established pursuant to subsection (3)(c) must be demonstrated within 180 days of the compliance date for the limit in paragraph (1)(b)(A) or (B) that is superseded by the emissions limit established pursuant to subsection (3)(c).

(5) Compliance Monitoring and Testing.

(a) Compliance with the emissions limits in subsections (1)(a), (b) and (d)(A)-(B), and with any emission limit for sulfur dioxide that may be established pursuant to subsection (3)(c), must be determined with a continuous emissions monitoring system (CEMS) installed, operated, calibrated, and maintained in accordance with the acid rain monitoring requirements in 40 CFR Part 75 as in effect on December 9, 2010.

(A) The hourly emissions rate in terms of lb/mmBtu heat input must be recorded each operating hour, including periods of startup and shutdown.

(B) The daily average emissions rate must be determined for each boiler operating day using the hourly emissions rates recorded in (A), excluding periods of startup and shutdown.

(C) 30-day rolling averages must be determined using all daily average emissions rates recorded in (B) whether or not the days are consecutive.

(D) The daily average emission rate is calculated for any calendar day in which the boiler combusts any fuel. An operating hour means a clock hour during which the boiler combusts any fuel, either for part of the hour or for the entire hour.

(b) Compliance with the particulate matter emissions limit in subsection (1)(c) must be determined by EPA Methods 5 and 19 as in effect on December 9, 2010.

(A) An initial particulate matter source test must be conducted by January 1, 2015.



(B) Subsequent tests must be conducted in accordance with a schedule specified in the source's Oregon Title V Operating Permit, but not less than once every 5 years.

(C) All testing must be performed in accordance with the Department's Source Sampling Manual as in effect on December 9, 2010.

(6) Notifications and Reports.

(a) The Department must be notified in writing within 7 days after any control equipment (including combustion controls) used to comply with emissions limits in section (1), and with any emissions limit for sulfur dioxide that may be established pursuant to subsection (3)(c), begins operation.

(b) For nitrogen oxide and sulfur dioxide emissions limits in section (1) based on a 30-day rolling average, a compliance status report, including CEMS data, must be submitted within 180 days of the compliance dates specified in section (1).

(c) For any sulfur dioxide emissions limit that may be established pursuant to subsection (3)(c), a compliance status report, including CEMS data, must be submitted within 180 days of the compliance date for the limit in paragraph (1)(b)(A) or (B) that is superseded by the emissions limit established pursuant to subsection (3)(c).

(d) For particulate matter, a compliance status report, including a source test report, must be submitted within 60 days of completing the initial compliance test and all subsequent tests as specified in subsection (5)(b).

(e) The Department must be notified in writing within 7 days of the date upon which the boiler permanently ceases burning coal.

(7) The following provisions of this rule constitute BART requirements for the Foster-Wheeler Boiler: subsection (1)(a), paragraph (1)(b)(A), subsections (1)(c)-(e), (2)(a) and (2)(c), and sections (3)-(6).

(8) The following provisions of this rule constitute additional requirements pursuant to the federal Regional Haze Rules under 40 CFR § 51.308(e) for the Foster-Wheeler Boiler: paragraph (1)(b)(B), subsections (2)(b) and (2)(c), and sections (3)-(6).

*State effective: 12/10/2010; EPA approval: 7/5/2011, 76 FR 38997; EPA effective: 8/4/2011*

### **340-223-0040 Federally Enforceable Permit Limits**

(1) A BART-eligible source that would be subject to BART may accept a federally enforceable permit limit or limits that reduces the source's emissions and prevents the source from being subject to BART.

(2) Any BART-eligible source that accepts a federally enforceable permit limit or limits as described in section (1) to prevent the source from being subject to BART, and that subsequently proposes to

terminate its federally enforceable permit limit or limits, and that as a result will increase its emissions and become subject to BART, must submit a BART analysis to the Department and install BART as determined by the Department prior to terminating the federally enforceable permit limit or limits.

(3) The Foster-Wheeler boiler at The Amalgamated Sugar Company plant in Nyssa, Oregon (Title V permit number 23-0002) is a BART-eligible source, and air quality dispersion modeling demonstrates that it would be subject to BART while operating. However, it is not operating as of December 9, 2010, and therefore is not subject to BART. Prior to resuming operation, the owner or operator of the source must either:

(a) Submit a BART analysis and install BART as determined by the Department by no later than five years from the date that the United States Environmental Protection Agency approves a revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR chapter 340, division 223, or before resuming operation, whichever is later; or

(b) Obtain and comply with a federally enforceable permit limit or limits assuring that the source's emissions will not cause the source to be subject to BART.

*State effective: 12/10/2010; EPA approval: 7/5/2011, 76 FR 38997; EPA effective: 8/4/2011*

#### **340-223-0050 Alternative Regional Haze Requirements for the Foster-Wheeler Boiler at the Boardman Coal- Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106)**

(1) The owner and operator of the Foster-Wheeler boiler at the Boardman coal-fired power plant may elect to comply with OAR 340-223-0060 and 340-223-0070, or with OAR 340-223-0080, in lieu of complying with OAR 340-223-0030, if the owner or operator provides written notification to the Director by no later than July 1, 2014. The written notification must identify which rule of the two alternatives the owner or operator has chosen to comply with. The owner or operator may not change its chosen method of compliance after July 1, 2014.

(2) Compliance with OAR 340-223-0080 in lieu of complying with OAR 340-223-0030 is allowed only if the Foster-Wheeler boiler at the Boardman coal-fired power plant permanently ceases to burn coal within five years of the approval by the United States Environmental Protection Agency (EPA) of the revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR chapter 340, division 223. If the boiler has not permanently ceased burning coal by that date, the owner and operator shall be liable for violating OAR 340-223-0030 for each day beginning July 1, 2014 on which the owner or operator did not comply with OAR 340-223-0030. This liability shall include, but is not limited to, civil penalties pursuant to OAR chapter 340, division 12, which includes penalties for the economic benefit of operating the facility without the required pollution controls.

(3) If, by December 31, 2011, the EPA fails to approve a revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR 340-223-0030 (concerning BART requirements based upon permanently ceasing the burning of coal in the Foster-Wheeler Boiler by December 31, 2020), or OAR 340-223-0060 and 340-223-0070, then the compliance date of July 1, 2014 in OAR 340-223-0060(2)(b) and (c) (sulfur dioxide and particulate matter emissions limits) is delayed until three years from the date of EPA approval.

(4) Notwithstanding sections (1) and (3), if the EPA approves a revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR 340-223-0030 (concerning BART requirements based upon permanently ceasing the burning of coal in the Foster-Wheeler Boiler by December 31, 2020), then OAR 340-223-0060 and 340-223-0070 are repealed, compliance with OAR 340-223-0060 and 340-223-0070 in lieu of complying with OAR 340-223-0030 is no longer an alternative, and compliance with OAR 340-223-0030 or OAR 340-223-0080 is required.

*State effective: 12/10/2010; EPA approval: 7/5/2011, 76 FR 38997; EPA effective: 8/4/2011*

**340-223-0080 Alternative Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106) Based Upon Permanently Ceasing the Burning of Coal Within Five Years of EPA Approval of the Revision to the Oregon Clean Air Act State Implementation Plan Incorporating OAR Chapter 340, Division 223.**

(1) Subject to OAR 340-223-0050, the owner or operator of the Foster-Wheeler boiler at the Boardman coal-fired power plant may elect to comply with this rule in lieu of compliance with OAR 340-223-0030 if the boiler permanently ceases to burn coal within five years of the approval by the United States Environmental Protection Agency (EPA) of the revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR chapter 340, division 223.

(2) Emissions limits:

(a) Beginning July 1, 2011, nitrogen oxide emissions must not exceed 0.23 lb/mmBtu heat input as a 30-day rolling average, provided that:

(A) If the source submitted a complete application for construction and/or operation of pollution control equipment to satisfy the emissions limit in subsection (2)(a) at least eight months prior to the compliance date of July 1, 2011, and the Department has not approved or denied the application by the compliance date, the compliance date is extended until the Department approves or disapproves the application, but may not be extended to a date more than five years from the date that the EPA approves a revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR 340-223-0030; and

(B) If it is demonstrated by December 31, 2011 that the emissions limit in subsection (2)(a) cannot be achieved with combustion controls, the Department by order may grant an extension of compliance to July 1, 2013.

(b) During periods of startup and shutdown, the emissions limit in subsection (2)(a) does not apply, and nitrogen oxide emissions must not exceed 0.70 lb/mmBtu, as a 3-hour rolling average.

(c) The Foster-Wheeler boiler at the source must permanently cease burning coal by no later than five years after the approval by the EPA of the revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR chapter 340, division 223. Notwithstanding the definition of netting basis in OAR 340-200-0020, and the process for reducing plant site emission limits in OAR 340-222-0043, the netting basis and PSELs for the boiler are reduced to zero upon the date on which the boiler permanently

ceases burning coal, and prior to that date the netting basis and PSELs for the boiler apply only to physical changes or changes in the method of operation of the source for the purpose of complying with emission limits applicable to the boiler.

(3) Compliance demonstration. Using the procedures specified in section (4) of this rule, compliance with a 30-day rolling average limit must be demonstrated within 180 days of the compliance date specified in section (2) of this rule.

(4) Compliance Monitoring and Testing. Compliance with the emissions limit in subsection (2)(a) must be determined with a continuous emissions monitoring system (CEMS) installed, operated, calibrated, and maintained in accordance with the acid rain monitoring requirements in 40 CFR Part 75 as in effect on December 9, 2010.

(a) The hourly emission rate in terms of lb/mmBtu heat input must be recorded each operating hour, including periods of startup and shutdown.

(b) The daily average emission rate must be determined for each boiler operating day using the hourly emission rates recorded in (a), excluding periods of startup and shutdown.

(c) 30-day rolling averages must be determined using all daily average emissions rates recorded in (b) whether or not the days are consecutive.

(d) The daily average emission rate is calculated for any calendar day in which the boiler combusts any fuel. An operating hour means a clock hour during which the boiler combusts any fuel, either for part of the hour or for the entire hour.

#### (5) Notifications and Reports

(a) The Department must be notified in writing within 7 days after any control equipment (including combustion controls) used to comply with emissions limit in subsection (2)(a) begin operation.

(b) A compliance status report, including CEMS data, must be submitted within 180 days of the compliance date specified in section (2).

*State effective: 12/10/2010; EPA approval: 7/5/2011, 76 FR 38997; EPA effective: 8/4/2011*

## **DIVISION 224**

### **NEW SOURCE REVIEW**

#### **340-224-0010 Applicability, General Prohibitions, General Requirements and Jurisdiction**

(1) Except as provided in subsection (c), the owner or operator of a source undertaking one of the following actions must comply with the applicable Major New Source Review requirements of OAR 340-224-0010 through 340-224-0070 and OAR 340-224-0500 through 340-224-0540 for such actions prior to construction or operation:

(a) In an attainment, unclassified or sustainment area:

(A) Construction of a new federal major source;

(B) Major modification at an existing federal major source; or

(C) Major modification at an existing source that will become a federal major source because emissions of a regulated pollutant are increased to the federal major source level or more.

(b) In a nonattainment, reattainment or maintenance area:

(A) Construction of a new source that will emit 100 tons per year or more of the nonattainment, reattainment or maintenance pollutant;

(B) A major modification for the nonattainment, reattainment or maintenance pollutant, at an existing source that emits 100 tons per year or more of the nonattainment, reattainment or maintenance pollutant; or

(C) A major modification for the nonattainment, reattainment or maintenance pollutant, at an existing source that will increase emissions of the nonattainment, reattainment or maintenance pollutant to 100 tons per year or more.

(c) The owner or operator of a source is subject to 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, and the source meets the criteria in paragraph (A) or (B);

(A) The source is a new source which will emit GHGs at a rate equal to or greater than the SER; or

(B) The source is an existing source which is undertaking a major modification for GHGs.

(2) Except as provided in subsection (c), the owner or operator of a source that is undertaking an action that is not subject to Major NSR under section (1) and is one of the actions identified in subsections (a) or (b) must comply with the applicable State New Source Review requirements of OAR 340-224-0010 through 340-224-0038, OAR 340-224-0245 through 340-224-0270 and OAR 340-224-0500 through 340-224-0540 for such action prior to construction or operation.

(a) In a nonattainment, reattainment or maintenance area:

(A) Construction of a new source that will have emissions of the nonattainment, reattainment or maintenance pollutant equal to or greater than the SER; or

(B) Major modification for the nonattainment, reattainment or maintenance pollutant, at an existing source that will have emissions of the nonattainment, reattainment or maintenance pollutant equal to or greater than the SER over the netting basis.

(b) In any designated area, for actions other than those identified in subsection (a):

(A) Construction of a new source that will have emissions of a regulated pollutant equal to or greater than the SER; or

(B) Increasing emissions of a regulated pollutant to an amount that is equal to or greater than the SER over the netting basis.

(c) GHGs are not subject to State NSR.

(d) Type A and Type B State NSR: State NSR actions are categorized as follows:

(A) Actions under subsection (a), and actions for which the source must comply with OAR 340-224-0245(2), are categorized as Type A State NSR actions; and

(B) Actions under subsection (b) are categorized as Type B State NSR unless the source must comply with OAR 340-224-0245(2).

(3) The owner or operator of a source subject to section (1) or (2) must apply this division based on the type of designated area where the source is located for each regulated pollutant, taking the following into consideration:

(a) The source may be subject to this division for multiple pollutants;

(b) Some pollutants, including but not limited to NO<sub>x</sub>, may be subject to multiple requirements in this division both as pollutants and as precursors to other pollutants;

(c) Every location in the state carries an area designation for each criteria pollutant and the entire state is treated as an unclassified area for regulated pollutants that are not criteria pollutants; and

(d) Designated areas may overlap.

(4) Where this division requires the owner or operator of a source to conduct analysis under or comply with a rule in OAR 340 division 225, the owner or operator must complete such work in compliance with OAR 340-225-0030 and 340-225-0040.

(5) Owners and operators of all sources may be subject to other DEQ rules, including, but not limited to, Notice of Construction and Approval of Plans (OAR 340-210-0205 through 340-210-0250), ACDPs (OAR 340 division 216), Title V permits (OAR 340 division 218), Highest and Best Practicable Treatment and Control (OAR 340-226-0100 through 340-226-0140), Emission Standards for Hazardous Air Contaminants (OAR 340 division 244), and Standards of Performance for New Stationary Sources (OAR 340 division 238), as applicable.

(6) An owner or operator of a source that meets the applicability criteria of sections (1) or (2) may not begin actual construction, continue construction or operate the source without complying with the requirements of this division and obtaining an air contaminant discharge permit (ACDP) issued by DEQ authorizing such construction or operation.

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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0020 Definitions**

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

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0025 Major Modification**

(1) Except as provided in sections (3) and (4), "major modification" means a change at a source described in section (2) for any regulated pollutant subject to NSR since the later of:

(a) The baseline period for all regulated pollutants except PM<sub>2.5</sub>;

(b) May 1, 2011 for PM<sub>2.5</sub>; or

(c) The most recent Major or Type A State NSR action for that regulated pollutant.

(2)(a) Any physical change or change in the method of operation of a source that results in emissions described in paragraphs (A) and (B):

(A) A PSEL or actual emissions that exceed the netting basis by an amount that is equal to or greater than the SER; and

(B) The accumulation of emission increases due to all physical changes and changes in the method of operation that is equal to or greater than the SER. For purposes of this paragraph, emission increases shall be calculated as follows: For each unit with a physical change or change in the method of operation occurring at the source since the later of the dates in subsections (1)(a) through (1)(c) as applicable for each pollutant, subtract the unit's portion of the netting basis from its post-change potential to emit taking into consideration any federally enforceable limits on potential to emit. Emissions from categorically insignificant activities, aggregate insignificant emissions, and fugitive emissions must be included in the calculations.

(b) For purposes of this section:

(A) “The unit’s portion of the netting basis” means the portion of the netting basis assigned to or associated with the unit in question, taking into consideration the following, as applicable:

(i) The unit’s portion of the netting basis when the netting basis is established under OAR 340-222-0046(2); and

(ii) Any adjustments under OAR 340-222-0046(3) that affect the unit’s portion of the netting basis.

(B) Emission increases due solely to increased use of equipment or facilities that existed or were permitted or approved to construct in accordance with OAR 340 division 210 during the applicable baseline period are not included, except if the increased use is to support a physical change or change in the method of operation.

(C) If a portion of the netting basis or PSEL or both was set based on PTE because the source had not begun normal operations but was permitted or approved to construct and operate, that portion of the netting basis or PSEL or both must be excluded until the netting basis is reset as specified in OAR 340-222-0046(3)(d) and 340-222-0051(3).

(3) “Major modification” means any change including production increases, at a source that obtained a permit to construct and operate after the applicable baseline period but has not undergone Major NSR or Type A State NSR, that meets the criteria in subsections (a) or (b):

(a) The change would result in a PSEL increase of the de minimis level or more for any regulated pollutant at a federal major source in attainment, unclassified or sustainment areas; or

(b) The change would result in a PSEL increase of the de minimis level or more for the sustainment, nonattainment, reattainment or maintenance pollutant if the source emits such pollutant at the SER or more in a sustainment, nonattainment, reattainment, or maintenance area.

(c) This section does not apply to PM<sub>2.5</sub> and greenhouse gases.

(d) Changes to the PSEL solely due to the availability of more accurate and reliable emissions information are exempt from being considered an increase under this section.

(4) Major modifications for ozone precursors or PM<sub>2.5</sub> precursors also constitute major modifications for ozone and PM<sub>2.5</sub>, respectively.

(5) Except as provided in sections (1), (3), and (4), the following are not major modifications:

(a), Increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit but would not involve a physical change or change in method of operation of the source.

(b) Routine maintenance, repair, and replacement of components.



(c) Temporary equipment installed for maintenance of the permanent equipment if the temporary equipment is in place for less than six months and operated within the permanent equipment's existing PSEL.

(d) Use of alternate fuel or raw materials, that were available during, and that the source would have been capable of accommodating in the baseline period.

(6) When more accurate or reliable emissions information becomes available, a recalculation of the PSEL, netting basis, and increases/decreases in emissions must be performed to determine whether a major modification has occurred.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 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 340 division 216 for Major NSR or Type A State NSR action; or

(b) OAR 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 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(11), 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 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 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) (a) For 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 major NSR and Type A State NSR permit actions, DEQ may grant for good cause 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 3.
- (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 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 340 division 218, Oregon Title V Permits, are subject to the following:

Except as prohibited in subsection (b), approval to construct a source under an ACDP issued under OAR 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0034 Exemptions**

Temporary emission sources that would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a source subject to Major NSR or Type A State NSR must comply with only the control technology requirements in the applicable section, but are exempt from the remaining requirements of the applicable sections provided that the source subject to Major NSR or Type A State NSR would not impact a Class I area or an area with a known violation of a ambient air quality standard or a PSD increment.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0038 Fugitive and Secondary Emissions**

For sources subject to Major NSR or Type A State NSR, 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 source or modification is subject to Major or Type A State NSR. Once a source is subject to Major or Type A State NSR, secondary emissions also become subject to the air quality impact analysis requirements in this division and OAR 340 division 225.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0040 Review of Sources Subject to Major NSR or Type A State NSR for Compliance with Regulations**

The owner or operator of a source subject to Major NSR or Type A State NSR must demonstrate the ability of the source to comply with all applicable air quality requirements of DEQ.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **MAJOR NEW SOURCE REVIEW**

### **340-224-0045 Requirements for Sources in Sustainment Areas**

Within a designated sustainment area, a source subject to Major NSR must meet the requirements listed below for each sustainment pollutant:

(1) OAR 340-224-0070; and

(2) Net Air Quality Benefit: Satisfy OAR 340-224-0510 and 340-224-0520 for ozone sustainment areas or OAR 340-224-0510 and 340-224-0530(2) and (4) for non-ozone sustainment areas, whichever is applicable, unless the source can demonstrate that the impacts are less than the significant impact levels at all receptors within the sustainment area.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0050 Requirements for Sources in Nonattainment Areas**

Within a designated nonattainment area, and when referred to this rule by other rules in this division, a source subject to Major NSR must meet the requirements listed below for each nonattainment pollutant:

(1) Lowest Achievable Emission Rate (LAER). The owner or operator of the source must apply LAER for each nonattainment pollutant emitted at or above the SER. LAER applies separately to the nonattainment pollutant if emitted at or above a SER over the netting basis.

(a) For a major modification, the requirement for LAER applies to the following:

- (A) Each emissions unit that emits the nonattainment pollutant and is not included in the most recent netting basis established for that pollutant; and
  - B) Each emissions unit that emits the nonattainment pollutant and is included in the most recent netting basis and contributed to the emissions increase calculated in OAR 340-224-0025(2)(a)(B) for the nonattainment pollutant or precursor.
- (b) For phased construction projects, the LAER determination must be reviewed at the latest reasonable time before commencing construction of each independent phase.
- (c) When determining LAER for a change that was made at a source before the current Major NSR application, DEQ will consider technical feasibility of retrofitting required controls provided:
- (A) The physical change or change in the method of operation at a unit that contributed to the emissions increase calculated in OAR 340-224-0025(2)(a)(B) was made in compliance with Major NSR requirements in effect when the change was made, and
  - (B) No limit will be relaxed that was previously relied on to avoid Major NSR.
- (d) Physical changes or changes in the method of operation to individual emissions units that contributed to the emissions increase calculated in OAR 340-224-0025(2)(a)(B) but that increased the potential to emit less than 10 percent of the SER are exempt from this section unless:
- (A) They are not constructed yet;
  - (B) They are part of a discrete, identifiable, larger project that was constructed within the previous 5 years and that resulted in emission increases equal to or greater than 10 percent of the SER; or
  - (C) They were constructed without, or in violation of, DEQ's approval.
- (2) Air Quality Protection:
- (a) Air Quality Analysis: The owner or operator of a federal major source must comply with OAR 340-225-0050(4) and 340-225-0070.
  - (b) Net Air Quality Benefit: The owner or operator of the source must satisfy OAR 340-224-0510 and 340-224-0520 for ozone nonattainment areas or OAR 340-224-0510 and 340-224-0530(2) and (4) for non-ozone nonattainment areas, whichever is applicable.
  - (3) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:

(a) The owner or operator of any source that emits an ozone precursor (VOC or NO<sub>x</sub>) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and 340-224-0520 for ozone designated areas.

(b) The owner or operator of any source that emits any criteria pollutant, other than NO<sub>x</sub> as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and OAR 340-224-0540 for designated areas other than ozone designated areas.

(4) The owner or operator of the source must:

(a) Evaluate alternative sites, sizes, production processes, and environmental control techniques for the proposed source or major modification and demonstrate that benefits of the proposed source or major modification will significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(b) Demonstrate that all federal major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the state are in compliance, or are on a schedule for compliance, with all applicable emission limitations and standards under the FCAA.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0055 Reattainment Areas**

Within a designated reattainment area, a source subject to Major NSR must meet the requirements listed below for each reattainment pollutant:

(1) OAR 340-224-0050, treating the reattainment pollutant as a nonattainment pollutant for that rule; and

(2) The owner or operator must demonstrate that it will not cause or contribute to a new violation of an ambient air quality standard or PSD increment in OAR 340 division 202 by conducting the analysis under OAR 340-225-0050.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0060 Requirements for Sources in Maintenance Areas**

Within a designated maintenance area, a source subject to Major NSR must meet the requirements listed below for each maintenance pollutant:

(1) OAR 340-224-0070; and

(2) Net Air Quality Benefit: Except for sources described in section (7), the owner or operator of the source must satisfy one of the requirements listed below:

(a) OAR 340-224-0510 and 340-224-0520 for ozone maintenance areas or OAR 340-224-0510 and 340-224-0530(3) and (4) for non-ozone maintenance areas, whichever is applicable;

(b) Demonstrate that the source or modification will not cause or contribute to an air quality impact in excess of the impact levels in OAR 340-202-0225 by performing the analysis specified in OAR 340-225-0045; or

c) Obtain an allocation from a growth allowance. The requirements of this section may be met in whole or in part in an ozone or carbon monoxide maintenance area with an allocation by DEQ from a growth allowance, if available, under the applicable maintenance plan in the SIP adopted by the EQC and approved by EPA. Procedures for allocating the growth allowances for the Oregon portion of the Portland-Vancouver Interstate Maintenance Area for Ozone and the Portland Maintenance Area for Carbon Monoxide are contained in OAR 340-242-0430 and 340-242-0440.

(3) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:

(a) The owner or operator of any source that emits an ozone precursor (VOC or NO<sub>x</sub>) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and 340-224-0520 for ozone designated areas.

(b) The owner or operator of any source that emits any criteria pollutant, other than NO<sub>x</sub> as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and OAR 340-224-0540 for designated areas other than ozone designated areas.

4) Contingency Plan Requirements. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, this section applies in addition to other requirements of this rule until the EQC adopts a revised maintenance plan and EPA approves it as a SIP revision.

(a) The source must comply with the LAER requirement in OAR 340-224-0050(1) in lieu of the BACT requirement in section (1); and

b) The source must comply with the net air quality benefit requirement in subsection (2)(a) and may not apply the alternatives provided in subsections (2)(b) and (2)(c).



(5) Medford-Ashland AQMA: A source that would emit PM<sub>10</sub> within the Medford-Ashland AQMA must meet the LAER emission control technology requirements in OAR 340-224-0050.

(6) Pending Redesignation Requests. This rule does not apply to a source for which a complete application to construct was submitted to DEQ before the maintenance area was redesignated from nonattainment to attainment by EPA. Such a source is subject to OAR 340-224-0050 or OAR 340-224-0055, whichever is applicable.

(7) The following sources are exempt from net air quality benefit under section (2) as follows:

(a) Sources within or affecting the Medford Ozone Maintenance Area are exempt from the requirement for NO<sub>x</sub> offsets relating to ozone formation; and

(b) Sources within or affecting the Salem Ozone Maintenance Area are exempt from the requirement for VOC and NO<sub>x</sub> offsets relating to ozone formation.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0070 Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas**

Within a designated attainment or unclassified area, and when referred to this rule by other rules in this division, a source that is subject to Major NSR for any regulated pollutant, other than nonattainment pollutants and reattainment pollutants, must meet the requirements listed below for each such pollutant, except that GHGs are only subject to subsection (2):

(1)(a) Preconstruction Air Quality Monitoring:

(A) The owner or operator of a source must submit with the application an analysis of ambient air quality in the area impacted by the proposed project for each regulated pollutant subject to this rule except as allowed by paragraph (B).

(i) The analysis must include continuous air quality monitoring data for any regulated pollutant subject to this rule that may be emitted by the source, except for volatile organic compounds.

(ii) The data must relate to the year preceding receipt of the complete application and must have been gathered over the same time period.

(iii) DEQ may allow the owner or operator to demonstrate that data gathered over some other time period would be adequate to determine that the source would not cause or contribute to a violation of an ambient air quality standard or any applicable PSD increment.

(iv) When PM<sub>10</sub>/PM<sub>2.5</sub> preconstruction monitoring is required by this section, at least four months of data must be collected, including the season DEQ judges to have the highest

PM10/PM2.5 levels. PM10/PM2.5 must be measured using 40 CFR part 50, Appendices J and L. In some cases, a full year of data will be required.

(v) The owner or operator must submit a written preconstruction air quality monitoring plan at least 60 days prior to the planned beginning of monitoring. The applicant may not commence monitoring under the plan until DEQ approves the plan in writing.

(vi) Required air quality monitoring must comply with 40 CFR part 58 Appendix A, "Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring" and with other methods on file with DEQ.

(vii) With DEQ's approval, the owner or operator may use representative or conservative background concentration data in lieu of conducting preconstruction air quality monitoring if the source demonstrates that such data is adequate to determine that the source would not cause or contribute to a violation of an ambient air quality standard or any applicable PSD increment.

(B) DEQ may exempt the owner or operator of a source from preconstruction monitoring for a specific regulated pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below, or that modeled competing source concentration plus the general background concentration of the regulated pollutant within the source impact area, as defined in OAR 340 division 225, are less than the following significant monitoring concentrations:

(i) Carbon monoxide; 575 ug/m<sup>3</sup>, 8 hour average;

(ii) Nitrogen dioxide; 14 ug/m<sup>3</sup>, annual average;

(iii) PM10; 10 ug/m<sup>3</sup>, 24 hour average;

(iv) PM2.5; 0 ug/m<sup>3</sup>, 24-hour average;

(v) Sulfur dioxide; 13 ug/m<sup>3</sup>, 24 hour average;

(vi) Ozone; Any net increase of 100 tons/year or more of VOCs from a source requires an ambient impact analysis, including the gathering of ambient air quality data unless the existing representative monitoring data shows maximum ozone concentrations are less than 50 percent of the ozone ambient air quality standards based on a full season of monitoring;

(vii) Lead; 0.1 ug/m<sup>3</sup>, 24 hour average;

(viii) Fluorides; 0.25 ug/m<sup>3</sup>, 24 hour average;

(ix) Total reduced sulfur; 10 ug/m<sup>3</sup>, 1 hour average;

(x) Hydrogen sulfide; 0.04 ug/m<sup>3</sup>, 1 hour average;

(xi) Reduced sulfur compounds; 10 ug/m<sup>3</sup>, 1 hour average.

(b) Post-Construction Air Quality Monitoring: DEQ may require post-construction ambient air quality monitoring as a permit condition to establish the effect of actual emissions, other than volatile organic compounds, on the air quality of any area that such emissions could affect.

2) Best Available Control Technology (BACT). For a source under the applicability criteria in OAR 340-224-0010(1)(a)(A), the owner or operator must apply BACT for each regulated pollutant emitted at or above a SER. For a source under the applicability criteria in OAR 340-224-0010(1)(a)(B) or (C), BACT applies to each regulated pollutant that is emitted at or above a SER over the netting basis and meets the criteria of major modification in OAR 340-224-0025. In the Medford-Ashland AQMA, the owner or operator of any PM<sub>10</sub> source must comply with the LAER emission control technology requirement in OAR 340-224-0050(1), and is exempt from the BACT provision of this section.

(a) For a major modification, the requirement for BACT applies to the following:

(A) Each emissions unit that emits the regulated pollutant and is not included in the most recent netting basis established for that regulated pollutant; and

B) Each emissions unit that emits the regulated pollutant and is included in the most recent netting basis and contributed to the emissions increase calculated in OAR 340-224-0025(2)(a)(B) for the regulated pollutant.

(b) For phased construction projects, the BACT determination must be reviewed at the latest reasonable time before commencement of construction of each independent phase.

(c) When determining BACT for a change that was made at a source before the current Major NSR application, any additional cost of retrofitting required controls may be considered provided:

(A) The change was made in compliance with Major NSR requirements in effect at the time the change was made, and

(B) No limit is being relaxed that was previously relied on to avoid Major NSR.

(d) Modifications to individual emissions units that have an emission increase, calculated per OAR 340-224-0025(2)(a)(B), that is less than 10 percent of the SER are exempt from this section unless:

(A) They are not constructed yet;

(B) They are part of a discrete, identifiable larger project that was constructed within the previous 5 years and that is equal to or greater than 10 percent of the SER; or

(C) They were constructed without, or in violation of, DEQ's approval.

(3) Air Quality Protection:

(a) Air Quality Analysis:

(A) The owner or operator of the source must comply with OAR 340-225-0050 and 340-225-0060 for each regulated pollutant for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification.

(B) The owner or operator of a federal major source must comply with OAR 340-225-0050(4) and 340-225-0070.

(b) For increases of direct PM<sub>2.5</sub> or PM<sub>2.5</sub> precursors equal to or greater than the SERs, the owner or operator must provide an analysis of PM<sub>2.5</sub> air quality impacts based on all increases of direct PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors.

(c) The owner or operator of the source must demonstrate that it will not 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 under OAR 340-225-0050(1).

4) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:

(a) The owner or operator of any source that emits an ozone precursor (VOC or NO<sub>x</sub>) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and 340-224-0520 for ozone designated areas.

(b) The owner or operator of any source that emits any criteria pollutant, other than NO<sub>x</sub> as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and OAR 340-224-0540 for designated areas other than ozone designated areas.

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## STATE NEW SOURCE REVIEW

### **340-224-0245 Requirements for Sources in Sustainment Areas**

Within a designated sustainment area, a source subject to State NSR must meet the following requirements for each sustainment pollutant:

(1) Air Quality Protection: The owner or operator must comply with subsection (a) or (b):

(a) Air Quality Analysis: The owner or operator must comply with OAR 340-225-0050(1) and (2) and OAR 340-225-0060 for each regulated pollutant for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification. For increases of direct PM<sub>2.5</sub> or PM<sub>2.5</sub> precursors equal to or greater than the SER, the owner or operator must provide an analysis of PM<sub>2.5</sub> air quality impacts based on all increases of direct PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors; or

(b) Net Air Quality Benefit: The owner or operator of the source must satisfy the requirements of paragraph (A), (B), or (C), as applicable:

(A) For ozone sustainment areas, OAR 340-224-0510 and 340-224-0520;

(B) For sources located in non-ozone sustainment areas, that will emit 100 tons per year or more of the sustainment pollutant, OAR 340-224-0510 and 340-224-0530(2) and (4);

(C) For sources located in non-ozone sustainment areas, that will emit less than 100 tons per year of the sustainment pollutant, OAR 340-224-0510 and 340-224-0530(3) and (4).

(2) If the owner or operator complied with subsection (1)(b) and the increase in emissions is the result of a major modification, then the owner or operator must apply BACT under OAR 340-224-0070(2).

(3) The owner or operator of a federal major source must comply with OAR 340-225-0050(4) and 340-225-0070.

(4) The owner or operator must demonstrate that it will not 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 under OAR 340-225-0050(1).

(5) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:

(a) The owner or operator of any source that emits an ozone precursor (VOC or NO<sub>x</sub>) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and 340-224-0520 for ozone designated areas.

(b) The owner or operator of any source that emits any criteria pollutant, other than NO<sub>x</sub> as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and OAR 340-224-0540 for designated areas other than ozone designated areas.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0250 Requirements for Sources in Nonattainment Areas**

Within a designated nonattainment area, a source subject to State NSR must meet the following requirements for each nonattainment pollutant:

(1) If the increase in emissions is the result of a major modification, the owner or operator must apply BACT under OAR 340-224-0070(2).

(2) Air Quality Protection:

(a) Air Quality Analysis: An air quality analysis is not required except that the owner or operator of a federal major source must comply with OAR 340-225-0050(4) and 340-225-0070.

(b) Net Air Quality Benefit: The owner or operator of the source must satisfy the requirements of paragraph (A), (B), or (C), as applicable:

(A) For ozone nonattainment areas, OAR 340-224-0510 and 340-224-0520;

(B) For sources located in non-ozone nonattainment areas, that will emit 100 tons per year or more of the nonattainment pollutant, OAR 340-224-0510 and 340-224-0530(2) and (4);

(C) For sources located in non-ozone nonattainment areas, that will emit less than 100 tons per year of the nonattainment pollutant, OAR 340-224-0510 and 340-224-0530(3) and (4).

(3) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:

(a) The owner or operator of any source that emits an ozone precursor (VOC or NO<sub>x</sub>) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and 340-224-0520 for ozone designated areas.

(b) The owner or operator of any source that emits any criteria pollutant, other than NO<sub>x</sub> as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and OAR 340-224-0540 for designated areas other than ozone designated areas.

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### **340-224-0255 Requirements for Sources in Reattainment Areas**

Within a designated reattainment area, a source subject to State NSR must comply with the requirements in OAR 340-224-0260 for each reattainment pollutant treating the reattainment

pollutant as a maintenance pollutant for that rule, except that OAR 340-224-0260(2)(b)(C) and (4) are not applicable unless DEQ has approved a contingency plan for the reattainment area.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0260 Requirements for Sources in Maintenance Areas**

Within a designated maintenance area, a source subject to State NSR must meet the following requirements for each maintenance pollutant:

(1) If the increase in emissions is the result of a major modification, the owner or operator of the source must apply BACT under OAR 340-224-0070(2), except for a PM10 source in the Medford/Ashland AQMA where the owner or operator of the source must apply LAER under OAR 340-224-0050(1).

(2) Air Quality Protection: The owner or operator of the source must satisfy the requirements of either subsections (a), (c), and (d) or of subsections (b), (c) and (d):

(a) Air Quality Analysis: The owner or operator of the source must comply with OAR 340-225-0050(1) and (2) and 340-225-0060 for each regulated pollutant for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification. For emissions increases of direct PM2.5 or PM2.5 precursors equal to or greater than the SER, the owner or operator must provide an analysis of PM2.5 air quality impacts based on all increases of direct PM2.5 and PM2.5 precursors.

(b) Net Air Quality Benefit: The owner or operator of the source must satisfy the requirements of paragraph (A), (B) or (C), as applicable:

(A) OAR 340-224-0510 and 340-224-0520 for ozone maintenance areas or OAR 340-224-0510 and 340-224-0530(3) and (4) for non-ozone maintenance areas, whichever is applicable;

(B) Demonstrate that the source or modification will not cause or contribute to an air quality impact equal to or greater than the impact levels in OAR 340-202-0225 by performing the analysis specified in OAR 340-225-0045; or

(C) Obtain an allocation from a growth allowance. The requirements of this section may be met in whole or in part in an ozone or carbon monoxide maintenance area with an allocation by DEQ from a growth allowance, if available, under the applicable maintenance plan in the SIP adopted by the EQC and approved by EPA. Procedures for allocating the growth allowances for the Oregon portion of the Portland-Vancouver Interstate Maintenance Area for Ozone and the Portland Maintenance Area for Carbon Monoxide are contained in OAR 340-242-0430 and 340-242-0440.

(c) The owner or operator of a federal major source must comply with OAR 340-225-0050(4) and 340-225-0070.

(d) The owner or operator of the source must demonstrate that it will not 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 under OAR 340-225-0050(1).

(3) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:

(a) The owner or operator of any source that emits an ozone precursor (VOC or NO<sub>x</sub>) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and 340-224-0520 for ozone designated areas.

(b) The owner or operator of any source that emits any criteria pollutant, other than NO<sub>x</sub> as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and OAR 340-224-0540 for designated areas other than ozone designated areas.

(4) Contingency Plan Requirements. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, this section applies in addition to other requirements of this rule until the EQC adopts a revised maintenance plan and EPA approves it as a SIP revision.

(a) The source must comply with the LAER requirement in OAR 340-224-0050(1) in lieu of the BACT requirement in section (1); and

(b) The owner or operator must comply with paragraph (2)(b)(A).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-224-0270 Requirement for Sources in Attainment and Unclassified Areas**

Within a designated attainment or unclassified area, a source subject to State NSR must meet the following requirements for each attainment pollutant:

(1) Air Quality Protection:

(a) Air Quality Analysis: The owner or operator of the source must comply with OAR 340-225-0050(1) and (2) and 340-225-0060 for each regulated pollutant other than GHGs for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification.



(b) For increases of direct PM<sub>2.5</sub> or PM<sub>2.5</sub> precursors equal to or greater than the SER, the owner or operator of the source must provide an analysis of PM<sub>2.5</sub> air quality impacts based on all increases of direct PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors.

(c) The owner or operator of a federal major source must comply with OAR 340-225-0050(4) and 340-225-0070.

(d) The owner or operator of the source must demonstrate that it will not 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 under OAR 340-225-0050(1).

(2) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:

(a) The owner or operator of any source that emits an ozone precursor (VOC or NO<sub>x</sub>) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and 340-224-0520 for ozone designated areas.

(b) The owner or operator of any source that emits any criteria pollutant, other than NO<sub>x</sub> as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under OAR 340-224-0510 and OAR 340-224-0540 for designated areas other than ozone designated areas.

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## NET AIR QUALITY BENEFIT EMISSION OFFSETS

### **OAR 340-224-0500 Net Air Quality Benefit for Sources Locating Within or Impacting Designated Areas**

OAR 340-224-0510 through 340-224-0540 are the requirements for demonstrating net air quality benefit using offsets.

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### **340-224-0510 Common Offset Requirements**

The purpose of these rules is to demonstrate reasonable further progress toward achieving or maintaining the ambient air quality standards for sources locating within or impacting designated areas. A source may make such demonstration by providing emission offsets to balance the level of projected emissions by the source at the applicable ratios described in this division.

- (1) Unless otherwise specified in the rules, offsets required under this rule must meet the requirements of OAR 340 division 268, Emission Reduction Credits.
- (2) Except as provided in section (3), the emission reductions used as offsets must be of the same type of regulated pollutant as the emissions from the new source or modification. Sources of PM10 must be offset with particulate in the same size range.
- ~~(3) Offsets for direct PM2.5 may be obtained from NO2 and SO2 emissions as precursors to secondary PM2.5. The interpollutant trading ratios for these emissions will be approved by DEQ on a case by case basis. Offsets for SO2 and NO2 emissions from direct PM2.5 emissions will be determined in the same manner.~~
- (4) Offset ratios specified in these rules are the minimum requirement. All offsets obtained by a source, including any that exceed the minimum requirement, may be used for the purpose of OAR 340-224-0530(4).
- (5) Emission reductions used as offsets must meet at least one of the following criteria:
  - (a) They must be equivalent to the emissions being offset in terms of short term, seasonal, and yearly time periods to mitigate the effects of the proposed emissions; or
  - (b) They must address the air quality problem in the area, such as but not limited to woodstove replacements to address winter-time exceedances of short term PM2.5 standards.
- (6) If the complete permit application or permit that is issued based on that application is amended due to changes to the proposed project, the owner or operator may continue to use the original offsets and any additional offsets that may become necessary for the project provided that the changes to the project do not result in a change to the two digit Standard Industrial Classification (SIC) code associated with the source and that the offsets will continue to satisfy the offset criteria.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **OAR 340-224-0520 Requirements for Demonstrating Net Air Quality Benefit for Ozone Areas**

When directed by the Major or State NSR rules or OAR 340-222-0042, 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:  $D = 30 \text{ km}$

(B) For sources with complete permit applications submitted on or after Jan. 1, 2003:  $D = (Q/40) \times 30 \text{ km}$

(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 NO<sub>x</sub> 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:  $RO = (SQ \text{ minus } (SD \text{ multiplied by } 40/30))$

(B) Contributing sources may provide offsets (PO) calculated as follows:  $PO = CQ \text{ minus } (CD \text{ multiplied by } 40/30)$

(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 NO<sub>x</sub> 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 NO<sub>x</sub> 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 NO<sub>x</sub> in the designated area during high ozone conditions as the ratio described in section (3). The modeled reductions of ambient VOC or NO<sub>x</sub> 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 NO<sub>x</sub> 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.

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### **OAR 340-224-0530 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, 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 PM<sub>10</sub> major sources or PM<sub>10</sub> major modifications locating within the AQMA that are required to provide emission offsets under OAR 340-224-0060(2)(a) must provide reductions in PM<sub>10</sub> 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 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.

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### **OAR 340-224-0540 Sources in a Designated Area Impacting Other Designated Areas**

(1) When directed by the Major and State NSR rules, the owner or operator of a source locating outside, but impacting any designated area other than an attainment or unclassified area must meet one of the following requirements:

(a) Obtain offsets sufficient to reduce impacts to less than the Class II SIL at all receptors within the designated area as demonstrated using an air quality analysis under OAR 340 division 225; or

(b) Meet the following Net Air Quality Benefit requirements for the designated area that is impacted by the source, as applicable:

(A) For sources subject to Major NSR for the pollutant for which the area is designated:

(i) A source impacting a sustainment area must meet the requirements of OAR 340-224-0045(2);

(ii) A source impacting a nonattainment area must meet the requirements of OAR 340-224-0050(2)(b);

(iii) A source impacting a reattainment area must meet the requirements of OAR 340-224-0050(2)(b), treating the reattainment pollutant as a nonattainment pollutant for that rule; or

(iv) A source impacting a maintenance area must meet the requirements of OAR 340-224-0060(2).

(B) For sources subject to State NSR for the pollutant for which the area is designated:

(i) A source impacting a sustainment area must meet the requirements of OAR 340-224-0245(1)(b);

(ii) A source impacting a nonattainment area must meet the requirements of OAR 340-224-0250(2)(b);

(iii) A source impacting a reattainment area must meet the requirements of OAR 340-224-0260(2)(b) treating the reattainment pollutant as a maintenance pollutant for that rule; or

(iv) A source impacting a maintenance area must meet the requirements of OAR 340-224-0260(2)(b).

(2) When directed by the Major and State NSR rules, sources impacting any attainment and unclassified areas, but not directly subject to OAR 340-224-0070 or 340-224-0270, must comply with OAR 340-225-0050(1) and (2) for each regulated pollutant, other than GHGs, for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 225**

### **AIR QUALITY ANALYSIS REQUIREMENTS**

#### **340-225-0010 Purpose and Jurisdiction**

1) This division contains the definitions and requirements for air quality analysis. This division does not apply unless a rule in another division refers to this division or a rule in this division. For example, division 224, New Source Review, refers to provisions in this division for specific air quality analysis requirements.

(2) 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.



### **340-225-0020 Definitions**

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

(1) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- (a) The applicable standards as set forth in 40 CFR parts 60, 61, 62 and 63;
- (b) The applicable SIP emissions limitation, including those with a future compliance date; or
- (c) The emissions rate specified as a federally enforceable permit condition.

(2) "Baseline concentration" means:

- (a) Except as provided in subsection (c), the ambient concentration level for sulfur dioxide and PM10 that existed in an area during the calendar year 1978. Actual emission increases or decreases occurring before January 1, 1978 must be included in the baseline calculation, except that actual emission increases from any major source or major modification on which construction commenced after January 6, 1975 must not be included in the baseline calculation;
- (b) The ambient concentration level for nitrogen oxides that existed in an area during the calendar year 1988.
- (c) For the area of northeastern Oregon within the boundaries of the Umatilla, Wallowa-Whitman, Ochoco, and Malheur National Forests, the ambient concentration level for PM10 that existed during the calendar year 1993. DEQ may allow the source to use an earlier time period if DEQ determines that it is more representative of normal emissions.
- (d) For PM10 in the Medford-Ashland AQMA: the ambient PM10 concentration levels that existed during the calendar year 2006, the year that EPA redesignated that AQMA to attainment for PM10.
- (e) The ambient concentration level for PM2.5 that existed in an area during the calendar year 2007.
- (f) If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for the years specified in subsections (a) through (e).

- (3) "Baseline concentration year" means the calendar year used to determine the baseline concentration for a particular regulated pollutant in a particular designated area.
- 4) "Competing PSD increment consuming source impacts" means the total modeled concentration above the modeled baseline concentration resulting from increased and decreased emissions of all other sources since the baseline concentration year 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. Allowable emissions may be used as a conservative estimate of increased emissions, in lieu of actual emissions, in this analysis.
- (5) "Competing AAQS source impacts" means total modeled concentrations of the subject pollutant resulting from allowable emissions of all other sources expected to cause a significant concentration gradient in the vicinity of the source or sources under consideration. 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.
- (6) "FLAG" refers to the Federal Land Managers' Air Quality Related Values Work Group Phase I Report — REVISED, published at 75 Federal Register 66125, Oct. 27, 2010.
- (7) "General background concentration" means impacts from natural sources and unidentified sources that were not explicitly modeled, and may be determined based on either site-specific ambient monitoring or, with DEQ approval, on representative ambient monitoring from another location. (c) The future year (2025) concentrations for the Lakeview UGB are 126  $\mu\text{g}/\text{m}^3$  (24-hour average) and 27  $\mu\text{g}/\text{m}^3$  (annual average).
- (8) "Nitrogen deposition" means the sum of anion and cation nitrogen deposition expressed in terms of the mass of total elemental nitrogen being deposited. As an example, nitrogen deposition for  $\text{NH}_4\text{NO}_3$  is 0.3500 times the weight of  $\text{NH}_4\text{NO}_3$  being deposited.
- (9) "Predicted maintenance area concentration" means the future year ambient concentration predicted by DEQ in the applicable maintenance plan as follows:
- (a) The future year (2015) PM<sub>10</sub> concentrations for the Grants Pass UGB are 89  $\mu\text{g}/\text{m}^3$  (24-hour average) and 21  $\mu\text{g}/\text{m}^3$  (annual average).
- (b) The future year (2015) PM<sub>10</sub> concentrations for the Klamath Falls UGB are 114  $\mu\text{g}/\text{m}^3$  (24-hour average) and 25  $\mu\text{g}/\text{m}^3$  (annual average).
- (c) The future year (2025) PM<sub>10</sub> concentrations for the Lakeview UGB are 126  $\mu\text{g}/\text{m}^3$  (24-hour average) and 27  $\mu\text{g}/\text{m}^3$  (annual average).

(10) "Range of influence formula or "ROI formula" means the calculation of the distance in kilometers from the source impact area of the new or modified source to other emission sources that could impact that area. If there is no source impact area, the distance is calculated from the new or modified source. Any location that is closer to the source than the ROI may be considered to be "within the range of influence" of the source. The ROI formula is as follows:

(a) For PSD Class II and Class III areas, the Range of Influence formula of a competing source (in kilometers) is defined by:

(A)  $\text{ROI (km)} = Q \text{ (tons/year)} / K \text{ (tons/year km)}$ .

(B) Definition of factors used in paragraph (a):

i) Maximum ROI is 50 km.

(ii) Q is the emission rate of the potential competing source in tons per year.

(iii) K (tons/year km) is a regulated pollutant specific constant as follows:

(I) For PM<sub>2.5</sub>, PM<sub>10</sub>, SO<sub>x</sub> and NO<sub>x</sub>, K = 5;

(II) For CO, K = 40; and

(III) For lead, K = 0.15.

(b) For PSD Class I areas, the Range of Influence formula of a competing source includes emissions from all sources that occur within the modeling domain of the source being evaluated. DEQ determines the modeling domain on a case-by-case basis.

(11) "Single source impact" means the modeled impacts from an increase in emissions of regulated pollutants from a source without including the impacts from other sources.

(12) "Source impact area" means an area, or locations, where predicted impacts from the source or modification equal or exceed the Class II significant impact levels set out in OAR 340-200-0020. This definition only applies to PSD Class II areas and is not intended to limit the distance for PSD Class I modeling.

(13) "Sulfur deposition" means the sum of anion and cation sulfur deposition expressed in terms of the total mass of elemental sulfur being deposited. As an example, sulfur deposition for (NH<sub>4</sub>)<sub>2</sub>SO<sub>4</sub> is 0.2427 times the weight of (NH<sub>4</sub>)<sub>2</sub>SO<sub>4</sub> being deposited.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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

Information Required.(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 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.

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### **340-225-0040 Air Quality Models**

All modeled estimates of ambient concentrations required under this division must be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR part 51, Appendix W, "Guidelines on Air Quality Models (Revised)." Where an air quality impact model specified in 40 CFR part 51, Appendix W is inappropriate, the methods published in the FLAG are generally preferred for analyses in PSD Class I areas. Where an air quality impact model other than that specified in 40 CFR part 51, Appendix W is appropriate in PSD Class II and III areas, the model may be modified or another model substituted. Any change or substitution from models specified in 40 CFR part 51, Appendix W is subject to notice and opportunity for public comment and must receive prior written approval from DEQ and the EPA.

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### **340-225-0045 Requirements for Analysis in Maintenance Areas**

Modeling: For determining compliance with the maintenance area impact levels established in OAR 340-202-0225, the following methods must be used:

(1) For each maintenance pollutant, a single source impact analysis is sufficient to show compliance with the maintenance area maximum impact levels 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 showing that the SIL by itself is protective of the maintenance area impact levels. The assessment must take into consideration but is not limited to 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 must complete a competing source analysis to demonstrate that modeled impacts from the proposed increased emissions plus competing source impacts, plus the predicted maintenance area concentration are less than the maintenance area impact levels in OAR 340-202-0225 for all averaging times.

(3) Any analyses performed under this section must be done in compliance with OAR 340-225-0030 and 340-225-0040, as applicable.

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### **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 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 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.

(a) When referred to this rule by divisions 222 or 224, 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 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-225-0060 Requirements for Demonstrating Compliance with Standards and Increments in PSD Class I Areas**

For determining compliance with AAQS and PSD increments in PSD Class I areas, the following methods must be used:

(1) Before Jan. 1, 2003, the owner or operator of a source must model impacts and demonstrate compliance with standards and increments on all PSD Class I areas that may be affected by the source or modification.

(2) On or after Jan. 1, 2003, the owner or operator of a source must meet the following requirements:

(a) For each regulated pollutant, a single source impact analysis is sufficient to show compliance with PSD increments if 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 demonstrated to be less than the Class I significant impact levels specified in OAR 340-200-0020. (b) If this requirement is not satisfied, the owner or operator must complete a competing source analysis to demonstrate that the increased source impacts above baseline concentration plus competing PSD increment consuming source impacts are less than the PSD Class I increments for all averaging times.

(b) For each regulated pollutant, a single source impact analysis is sufficient to show compliance with AAQS if 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 demonstrated to be less than the Class I significant impact levels specified in OAR 340-200-0020. If this requirement is not satisfied, the owner or operator must complete a competing source analysis to demonstrate compliance with the AAQS by showing that its total modeled impacts plus total modeled competing source impacts plus general background concentrations are less than the AAQS for all averaging times.

(c) The owner or operator also must demonstrate that the proposed source or modification will not 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 levels under subsections (a) and (c), in accordance with OAR 340-202-0050(2).

(3) Any analyses performed under this section must be done in compliance with OAR 340-225-0030 and 340-225-0040, as applicable.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 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 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 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.

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.

(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 OAR 340-224-0070(3) must provide an analysis of the impact to visibility that would occur as a result of the proposed source 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.

(11) Any analyses performed under this section must be done in compliance with OAR 340-225-0030 and 340-225-0040, as applicable.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 226**

### **GENERAL EMISSION STANDARDS**

#### **340-226-0005 Applicability and Jurisdiction**

(1) This division applies in all areas of the state.

(2) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **340-226-0010 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Refuse" means unwanted matter.

(2) "Refuse burning equipment" means a device designed to reduce the volume of solid, liquid, or gaseous refuse by combustion.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **HIGHEST AND BEST PRACTICABLE TREATMENT AND CONTROL**

#### **340-226-0100 Policy and Application**

(1) As specified in OAR 340-226-0110 through 340-226-0140 and sections (2) through (5), the highest and best practicable treatment and control of air contaminant emissions must 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 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.

(4) The EQC encourages the owner or operator of a source to further reduce emissions from the source beyond applicable control requirements where feasible.

(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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-226-0110 Pollution Prevention**

The owner or operator of a source is encouraged to take into account the overall impact of the control methods selected, considering risks to all environmental media and risks from all affected products and processes. The owner or operator of a source is encouraged, but not required, to use the following hierarchy in controlling air contaminant emissions:

(1) Modify the process, raw materials or product to reduce the toxicity and quantity of air contaminants generated;

(2) Capture and reuse air contaminants;

(3) Treat to reduce the toxicity and quantity of air contaminants released; or

(4) Otherwise control emissions.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-226-0120 Operating and Maintenance Requirements**

(1) Operational, Maintenance and Work Practice Requirements:

(a) Where DEQ has determined that specific operational, maintenance, or work practice requirements are appropriate to ensure that the owner or operator of a source is operating and

maintaining air pollution control devices and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions, DEQ will establish such requirements by permit condition or notice of construction approval;

(b) Operational, maintenance, and work practice requirements include:

(A) Flow rates, temperatures, pressure drop, ammonia slip, and other physical or chemical parameters related to the operation of air pollution control devices and emission reduction processes;

(B) Monitoring, record-keeping, testing, and sampling requirements and schedules;

(C) Maintenance requirements and schedules; and

(D) Requirements that components of air pollution control devices be functioning properly.

(2) Emission Action Levels:

(a) Where DEQ has determined that specific operational, maintenance, or work practice requirements considered or required under section (1) are insufficient to ensure that the owner or operator is operating and maintaining air pollution control devices and emission reduction processes at the highest reasonable efficiency and effectiveness, DEQ may establish, by permit or Notice of Construction approval, specific emission action levels in addition to applicable emission standards. An emission action level will be established that ensures an air pollution control device or emission reduction process is operated at the highest reasonable efficiency and effectiveness to minimize emissions;

(b) If emissions from a source equal or exceed the applicable emission action level, the owner or operator of the source must:

(A) Take corrective action as expeditiously as practical to reduce emissions to below the emission action level;

(B) Maintain records at the plant site for two years which document the exceedance, the cause of the exceedance, and the corrective action taken;

(C) Make such records available for inspection by DEQ during normal business hours; and

(D) Submit such records to DEQ upon request.

(c) DEQ will revise an emission action level if it finds that such level does not reflect the highest reasonable efficiency and effectiveness of air pollution control devices and emission reduction processes;

(d) An exceedance of an emission action level that is more stringent than an applicable emission standard is not a violation of such emission standard.

(3) In determining the highest reasonable efficiency and effectiveness for purposes of this rule, DEQ considers operational variability and the capability of air pollution control devices and emission reduction processes. If the performance of air pollution control devices and emission reduction processes during startup or shutdown differs from the performance under normal operating conditions, DEQ determines the highest reasonable efficiency and effectiveness separately for these operating modes.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-226-0130 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. 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 340 divisions 224, 230, OAR 340-232-0010 through 340-232-0240, OAR 340 divisions 234, 236, or 238, OAR 340-240-0110 through 340-240-0180, 340-240-0310(1), 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. 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 Major NSR in OAR 340 division 224, a Type A State NSR action under OAR 340 division 224, an applicable Standard of Performance

for New Stationary Sources in OAR 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 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-226-0140 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. For existing sources, DEQ will conduct monitoring to confirm 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 340 divisions 200 through 268:

(a) Chemical weapons; and

(b) Combustion and degradation by-products of chemical weapons.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## GRAIN LOADING STANDARDS

### **340-226-0210 Particulate Emission Limitations for Sources Other Than Fuel Burning Equipment, Refuse Burning Equipment and Fugitive Emissions**

(1) This rule does not apply to fugitive emissions sources, fuel burning equipment, refuse burning equipment, or to 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 provided that all representative compliance source test results collected prior to 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 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 (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 all representative compliance source test results prior to April 16, 2015 demonstrate emissions no greater than 0.080 grains per dry standard cubic foot; or;

(B) 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, then 0.14 grains per dry standard cubic foot.

(c) For sources installed, constructed or modified 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; 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## PARTICULATE EMISSIONS FROM PROCESS EQUIPMENT

### **340-226-0310 Emission Standard**



No person may cause, suffer, allow, or permit the emissions of particulate matter in any one hour from any process in excess of the amount shown in OAR 340-226-8010, for the process weight rate allocated to such process.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-226-0320 Determination of Process Weight**

(1) Process weight is the total weight of all materials introduced into a piece of process equipment. Solid fuels charged are considered part of the process weight, but liquid and gaseous fuels and combustion air are not.

(a) For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation, excluding any time during which the equipment is idle.

(b) For a continuous operation, the process weight per hour is derived by dividing the process weight by a typical period of time, as approved by DEQ.

(2) Where the nature of any process or operation or the design of any equipment permits more than one interpretation of this rule, the interpretation that results in the minimum value for allowable emission applies.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **ALTERNATIVE EMISSION CONTROLS**

### **340-226-0400 Alternative Emission Controls (Bubble)**

(1) DEQ may approve alternative emission controls for VOC and NO<sub>x</sub> emissions in a Standard ACDP or Oregon Title V Operating Permit for use within a single source such that a specific emission limit is exceeded, provided that:

(a) Such alternatives are not specifically prohibited by a rule or permit condition.

(b) Net total emissions for each regulated pollutant from all emissions units involved (i.e., “under the bubble”) are not increased above the PSEL.

(c) The owner or operator of the source demonstrates the net air quality benefit under OAR 340-224-0520.

(d) No other air contaminants including malodorous, toxic or hazardous pollutants are substituted.

(e) BACT and LAER, where required by a previously issued permit pursuant to OAR 340 division 224 (NSR), OAR 340 division 238 (NSPS), and OAR 340 division 244 (NESHAP), where required, are not relaxed;

(f) Specific emission limits are established for each emission unit involved (“under the bubble”) such that compliance with the PSEL can be readily determined;

(g) The owner or operator of the source applies for a permit or permit modification and such application is approved by DEQ.

(h) The emissions unit that reduces its emissions achieves the reductions by reducing its allowable emission rate, and not by reducing production, throughput, or hours of operation.

(2) The permit will include a net emissions limit on total emissions from all devices or emissions units involved (“under the bubble”).

(3) Alternative emission controls, in addition to those allowed in section (1), may be approved by DEQ and EPA as a source specific SIP amendment.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-226-8010**

Particulate Matter Emissions Standards for Process Equipment					
Process lbs/hr	Emission lbs/hr	Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr
50	0.24	2300	4.44	7500	8.39
100	0.46	2400	4.55	8000	8.71
150	0.66	2500	4.64	8500	9.03
200	0.85	2600	4.74	9000	9.36
250	1.03	2700	4.84	9500	9.67
300	1.20	2800	4.92	10000	10.00
350	1.35	2900	5.02	11000	10.63
400	1.50	3000	5.10	12000	11.28
450	1.63	3100	5.18	13000	11.89

Particulate Matter Emissions Standards for Process Equipment					
Process lbs/hr	Emission lbs/hr	Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr
500	1.77	3200	5.27	14000	12.50
550	1.89	3300	5.36	15000	13.13
600	2.01	3400	5.44	16000	13.74
650	2.12	3500	5.52	17000	14.36
700	2.24	3600	5.61	18000	14.97
750	2.34	3700	5.69	19000	15.58
800	2.43	3800	5.77	20000	16.19
850	2.53	3900	5.85	30000	22.22
900	2.62	4000	5.93	40000	28.30
950	2.72	4100	6.01	50000	34.30
1000	2.80	4200	6.08	60000	40.00
1100	2.97	4300	6.15	70000	41.30
1200	3.12	4400	6.22	80000	42.50
1300	3.26	4500	6.30	90000	43.60
1400	3.40	4600	6.37	10000	44.60
1500	3.54	4700	6.45	120000	46.30
1600	3.66	4800	6.52	140000	47.80
1700	3.79	4900	6.60	160000	49.00
1800	3.91	5000	6.67	200000	51.20
1900	4.03	5500	7.03	1000000	69.00
2000	4.14	6000	7.37	2000000	77.60

Particulate Matter Emissions Standards for Process Equipment					
Process lbs/hr	Emission lbs/hr	Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr
2100	4.24	6500	7.71	6000000	92.70
2200	4.34	7000	8.05		

Interpolation and extrapolation of the data for process unit weight rates in excess of 6,000,000 pounds/hour shall be accomplished by the use of the equation:

$$E = 55.0P^{0.11} - 40$$

where: E = rate of process unit emission in pounds/hour, and

P = process weight in tons/hour

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## DIVISION 228

### REQUIREMENTS FOR FUEL BURNING EQUIPMENT AND FUEL SULFUR CONTENT

#### 340-228-0010 Applicability and Jurisdiction

- (1) This division applies in all areas of the state.
- (2) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### 340-228-0020 Definitions

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

- (1) "Distillate fuel oil" means any oil meeting the specifications of ASTM Grade 1 or 2 fuel oils;
- (2) "Residual fuel oil" means any oil meeting the specifications of ASTM Grade 4, 5, or 6 fuel oils.

## **SULFUR CONTENT OF FUELS**

### **340-228-0100 Residual Fuel Oils**

No person may sell, distribute, use, or make available for use, any residual fuel oil containing more than 1.75 percent sulfur by weight.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-228-0110 Distillate Fuel Oils**

No person shall sell, distribute, use, or make available for use, any distillate fuel oil containing more than the following percentages of sulfur:

(1) ASTM Grade 1 fuel oil -- 0.3 percent by weight.

(2) ASTM Grade 2 fuel oil -- 0.5 percent by weight.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-228-0120 Coal**

(1) Except as provided in section (2), no person may sell, distribute, use, or make available for use, any coal containing greater than 1.0 percent sulfur by weight.

(2) No person may sell, distribute, use or make available for use any coal or coal containing fuel with greater than 0.3 percent sulfur and five percent volatile matter as defined in ASTM Method D3175 for direct space heating within the Portland, Salem, Eugene-Springfield, and Medford-Ashland Air Quality Maintenance Areas. For coals subjected to a devolatilization process, compliance with the sulfur limit may be demonstrated on the sulfur content of coal prior to the devolatilization process.

(3) Distributors of coal or coal containing fuel destined for direct residential space heating use must keep records for a five year period which must be available for DEQ inspection and which:

(a) Specify quantities of coal or coal containing fuels sold;

(b) Contain name and address of customers who are sold coal or coal containing fuels;

(c) Specify the sulfur and volatile content of coal or the coal containing fuel sold to residences in the Portland, Salem, Eugene-Springfield, and Medford-Ashland Air Quality Maintenance Areas.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-228-0130 Exemptions**

Exempted from the requirements of OAR 340-228-0100 through 340-228-0120 are:

- (1) Fuels used exclusively for the propulsion and auxiliary power requirements of vessels, railroad locomotives, and diesel motor vehicles.
- (2) With prior approval of DEQ, fuels used in such a manner or control provided such that sulfur dioxide emissions can be demonstrated to be equal to or less than those resulting from the combustion of fuels complying with the limitations of OAR 340-228-0100 through 340-228-0120.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## GENERAL EMISSION STANDARDS FOR FUEL BURNING EQUIPMENT

### **340-228-0200 Sulfur Dioxide Standards**

The following emission standards are only applicable to sources installed, constructed, or modified after January 1, 1972 except recovery furnaces regulated in OAR 340 division 234:

- (1) For fuel burning equipment having a heat input capacity between 150 million BTU per hour and 250 million BTU, no person may cause, suffer, allow, or permit the emission into the atmosphere of sulfur dioxide in excess of:

- (a) 1.4 pounds per million BTU heat input, maximum three-hour average, when liquid fuel is burned;

- (b) 1.6 pounds per million BTU heat input, maximum three-hour average, when solid fuel is burned.

- (2) For fuel burning equipment having a heat input capacity of more than 250 million BTU per hour, no person may cause, suffer, allow, or permit the emission into the atmosphere of sulfur dioxide in excess of:

- (a) 0.8 pound per million BTU heat input, maximum three-hour average, when liquid fuel is burned;

- (b) 1.2 pounds per million BTU heat input, maximum three-hour average, when solid fuel is burned.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-228-0210 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 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 on and after Jan. 1, 2020; and

(C) In addition to the limits in paragraph (A) or (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 all representative compliance source test results prior to April 16, 2015 demonstrate emissions no greater than 0.080 grains per dry standard cubic foot; or

(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 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) 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. 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 demonstrates, based on a signed report prepared by a registered professional engineer that specializes in boiler/multiclone operation, that the fuel burning equipment will be 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.

(e) 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.

(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% CO<sub>2</sub>.

(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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 232**

### **EMISSION STANDARDS FOR VOC POINT SOURCES**

#### **340-232-0010 Introduction**



(1) This division regulates sources of VOC which contribute to the formation of photochemical oxidant, mainly ozone.

(2) Since ozone standards are not violated in Oregon from October through April because of insufficient solar energy, natural gas-fired afterburners may be permitted, on a case-by-case basis, to lay idle during the winter months.

(3) Sources regulated by this division are new and existing sources located in the Portland and Medford AQMAs and in Salem-Keizer in the SKATS and listed in subsections (a) through (q) below:

(m) Automotive G(a) Bulk gasoline plants including transfer of gasoline;

(b) Gasoline delivery vessels;

(c) Bulk gasoline terminals including truck and trailer loading;

(d) Testing vapor transfer and collection systems;

(e) Loading gasoline and volatile organic liquids onto marine tank vessels;

(f) Cutback and emulsified asphalt;

(g) Petroleum refineries;

(h) Petroleum refinery leaks;

(i) VOC liquid storage;

(j) Surface coating in manufacturing;

(k) Aerospace component coating operations;

(l) Degreasers;

(m) Open top vapor degreasers;

(n) Conveyorized degreasers;

(o) Asphaltic and coal tar pitch used for roofing coating;

(p) Flat wood coating; and

(q) Rotogravure and flexographic printing.

(4) Emissions units not covered by the source categories listed in section (3) which emit or have the potential to emit over 100 tons of VOC per year before add-on controls are subject to OAR 340-232-0040.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0020 Applicability**

(1) All new and existing sources inside the following areas must comply with the applicable requirements in this division:

(a) Portland-Vancouver Air Quality Maintenance Area;

(b) Medford-Ashland Air Quality Maintenance Area;

(c) Salem-Keizer Area Transportation Study (SKATS) Area.

(2) VOC sources located outside the areas cited in section (1) are exempt from the requirements in this division.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 OAR 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 method 31 and 33 on file with DEQ. 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 filling 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 have potential emissions before add-on controls of over 100 tons per year of VOC from aggregated, non-regulated emission units, must have RACT requirements developed on a case-by-case basis by DEQ. Sources that have complied with NSR requirements per OAR 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. A source may request RACT not be applied by demonstrating to DEQ that 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.

(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.

(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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0050 Exemptions**

Natural gas-fired afterburners needed to comply with this division shall be operated during the months of May, June, July, August, and September. During other months, the afterburners may be turned off with prior written DEQ approval, provided that the operation of such devices is not required for purposes of occupational health or safety, or for the control of toxic substances, malodors, or other regulated pollutants, or for complying with visual air contaminant limitations.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0060 Compliance Determination**



(1) Certification and test procedures required by this division must be conducted using the DEQ Source Sampling Manual.

(2) DEQ approval of alternative methods for demonstrating compliance where specified and allowed in this division, including approval of equivalent testing methods for determining compliance, is subject to review and approval by EPA.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0080 Bulk Gasoline Plants Including Transfer of Gasoline**

(1) No person may transfer or allow the transfer of gasoline to or from a bulk gasoline plant unless:

(a) Each stationary storage tank uses submerged fill when transferring gasoline; and

(b) The displaced vapors from filling each tank are prevented from being released to the atmosphere through use of a vapor tight vapor balance system. All equipment associated with the vapor balance system must be maintained to be vapor tight and in good working order.

(2) Each stationary gasoline storage tank may release vapor to the atmosphere through a pressure relief valve set to release at the highest possible pressure in accordance with state or local fire codes, or the National Fire Prevention Association guidelines and no less than 3.4 kPa (0.50 psi).

(3) Gasoline must be handled in a manner to prevent spillage, discharging into sewers, storage in open containers, or handled in any other manner that would result in evaporation. If more than five gallons are spilled, the operator must report the spillage in accordance with OAR 340-214-0300 to 340-214-0350.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0085 Gasoline Delivery Vessel(s)**

(1) No person may transfer or allow the transfer of gasoline to a delivery vessel from a bulk gasoline terminal; or a bulk gasoline plant, with a daily throughput of 4,000 or more gallons based on a 30-day rolling average, located in the Portland-Vancouver AQMA, unless:

(a) Each delivery vessel uses submerged fill when receiving gasoline; and

(b) The displaced vapors from filling each tank are prevented from being released to the atmosphere through use of a vapor tight vapor balance system. All equipment associated with the vapor balance system must be maintained to be vapor tight and in good working order.

(2) Gasoline must be handled in a manner to prevent spillage, discharge into sewers, storage in open containers, or handled in any other manner that would result in evaporation. If more than

five gallons are spilled, the operator must report the spillage in accordance with OAR 340-214-0300 to 340-214-0350.

(3) Compliance with subsection (1)(a) and section (2) must be determined by visual inspection to ensure minimal spillage of gasoline and proper installation of bottom loading couples.

(4) Compliance with subsection (1)(b) must be determined by verification of use of equipment approved by DEQ and/or by testing and monitoring in accordance with applicable portions of OAR 340-232-0100 and/or Method 31 and/or 32 on file with DEQ.

(5) The owner or operator of a gasoline delivery vessel must maintain the vessel to be vapor tight at all times, in accordance with OAR 340- 232-0100(1), if such vessel is part of a vapor balance system required by subsection (1)(b).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 throughput 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. 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0100 Testing Vapor Transfer and Collection Systems**

- (1) No person may allow a vapor-laden delivery vessel subject to OAR 340-232-0080(5) to be filled or emptied unless the delivery vessel:
  - (a) Is tested annually according to the test Method 32 on file with DEQ, or CFR part 60, EPA Method 21 or 27, or California Air Resources Board Method 2-5;
  - (b) Sustains a pressure change of no more than 750 pascals (3 inches of H<sub>2</sub>O) in five minutes when pressurized to a gauge pressure of 4,500 pascals (18 inches of H<sub>2</sub>O) or evacuated to a gauge pressure of 1,500 pascals (6 inches of H<sub>2</sub>O) during the testing required in subsection (1)(a); and
  - (c) Displays a valid permit near the Department of Transportation test date markings required by 49 CFR 177.824h, which:
    - (A) Shows the year and month that the gasoline tank truck last passed the test required in subsections (1)(a) and (b);
    - (B) Shows the identification of the permit; and

(C) Expires not more than one year from the date of the leak-test test, or if tested in California, on the expiration date so specified.

(d) Has its vapor return hose connected by the truck operator so that gasoline vapor is not expelled to the atmosphere.

(2) The owner or operator of a vapor collection system subject to this regulation must design and operate the vapor collection system and the gasoline loading equipment in a manner that prevents:

(a) Gauge pressure from exceeding 4,500 pascals (18 inches of H<sub>2</sub>O) and vacuum from exceeding 1,500 pascals (6 inches of H<sub>2</sub>O) in the gasoline tank truck being loaded;

(b) A reading equal to or greater than 100 percent of the lower explosive limit (LEL, measured as propane) at 2.5 centimeters from all points on the perimeter of a potential leak source when measured by the Method 31 and 33 on file with DEQ, or unloading operations at gasoline dispensing facilities, bulk plants and bulk terminals; and

(c) Visible liquid leaks during loading or unloading operations at gasoline dispensing facilities, bulk plants and bulk terminals.

(3) DEQ may, at any time, monitor a gasoline tank truck, vapor collection system, or vapor control system, by the methods on file with DEQ, to confirm continuing compliance with section (1) or (2).

(4) Recordkeeping and Reporting:

(a) The owner or operator of a source of VOCs subject to this rule must maintain records of all certification testing and repairs. The records must identify the gasoline tank truck, vapor collection system, or vapor control system; the date of the test or repair; and if applicable, the type of repair and the date of retest. The records must be maintained in a legible, readily available condition for at least two years after the date of testing or repair was completed;

(b) Copies of all records and reports under subsection (4)(a) must be submitted to DEQ within 30 days of certification testing.

(c) Persons applying for a permit required by this rule must at the time of application pay a fee of \$25.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0110 Loading Gasoline and Volatile Organic Liquids onto Marine Tank Vessels**

(1) Applicability. This rule applies to loading events at any location within the Portland ozone air quality maintenance area when a liquid product identified in subsection (a) or (b), as applicable,

is placed into a marine tank vessel cargo tank; or where any liquid is placed into a marine tank vessel cargo tank that had previously held a liquid product identified in subsection (a) or (b), as applicable. The owner or operator of each marine terminal and marine tank vessel is responsible for and must comply with this rule.

(a) Prior to July 1, 2018, liquid product means gasoline;

(b) On and after July 1, 2018, liquid product means all of the following:

(A) Gasoline;

(B) Any other volatile organic liquid with a Reid vapor pressure of 27.6 kPa (4.0 psi) or more; and

(C) Any other organic liquid if the liquid is purposely heated, the liquid temperature is 110 degrees Fahrenheit or more at the time of loading, and the liquid has a Reid vapor pressure of 20.7 kPa (3.0 psi) or more.

(2) Exemptions. The following activities are exempt from the marine vapor control emission limits of this rule:

(a) Marine vessel bunkering;

(b) Lightering when neither vessel is berthed at a marine terminal dock,

(c) Loading when both of the following conditions are met:

(A) The vessel has been gas freed (regardless of the prior cargo), and

(B) When loading any products other than a liquid product identified in subsection (1)(a) or (1)(b), as applicable; and

(d) Loading organic liquids that are stored in pressurized tanks, such as but not limited to liquefied natural gas, liquefied petroleum gas, butane and propane.

(3) Vapor Collection System. The owner or operator of a marine terminal subject to this rule must equip each loading berth with a vapor collection system that is designed to collect all displaced VOC vapors during the loading of marine tank vessels. The owner or operator of a marine tank vessel subject to this rule must equip each marine tank vessel with a vapor collection system that is designed to collect all displaced VOC vapors during the loading of marine tank vessels. The collection system must be designed such that all displaced VOC vapors collected during any loading event are vented only to the control device.

(4) Marine Vapor Control Emission Limits. Vapors that are displaced and collected during marine tank vessel loading events must be reduced from the uncontrolled condition by at least 95 percent by weight, as determined by EPA Method 25 or other methods approved under OAR

340-212-0140, or limited to 5.7 grams per cubic meter (2 pounds per 1000 barrels) of liquid loaded.

(5) Operating Practice and Maintenance.

(a) All hatches, pressure relief valves, connections, gauging ports and vents associated with the loading of liquid product identified in subsection (1)(a) or (1)(b), as applicable, into marine tank vessels must be maintained to be leak free and vapor tight.

b) The owner or operator of any marine tank vessel must certify to DEQ that the vessel is leak free, vapor tight, and in good working order based on an annual inspection using EPA Method 21 or other method approved under OAR 340-212-0140.

(c) Gaseous leaks must be detected using EPA Method 21 or other methods approved under OAR 340-212-0140.

(d) Loading must cease anytime gas or liquid leaks are detected. Loading may continue only after leaks are repaired or if documentation is provided to DEQ that the repair of leaking components is technically infeasible without dry-docking the vessel or cannot otherwise be undertaken safely. Subsequent loading events involving the leaking components are prohibited until the leak is repaired. Any liquid or gaseous leak detected by DEQ staff is a violation of this rule.

(6) Monitoring and recordkeeping.

(Marine terminal operators must maintain operating records for at least five years of each loading event at their terminal. Marine tank vessel owners and operators are responsible for maintaining operating records for at least five years for all loading events involving each of their vessels. Records must be made available to DEQ upon request. These records must include but are not limited to:

(a) The location of each loading event.

(b) The date of arrival and departure of the vessel.

(c) The name, registry and legal owner of each marine tank vessel participating in the loading event.

(d) The type and amount of liquid product loaded into the marine tank vessel.

(e) The prior cargo carried by the marine tank vessel. If the marine tank vessel has been gas freed, then the prior cargo can be recorded as gas freed.

(f) The description of any gaseous or liquid leak, date and time of leak detection, leak repair action taken and screening level after completion of the leak repair.

(7) Lightering exempted from controls by subsection (2)(b) must be curtailed from 2:00 a.m. until 2:00 p.m. when DEQ declares a Clean Air Action day. If DEQ declares a second clean air action day before 2:00 p.m. of the first curtailment period, then such uncontrolled lightering must be curtailed for an additional 24 hours until 2:00 p.m. on the second day. If a third clean air action day in a row is declared, then uncontrolled lightering is permissible for a 12-hour period starting at 2 p.m. on the second clean air action day and ending at 2 a.m. on the third clean air action day. Uncontrolled lightering must be curtailed from 2 a.m. until 2 p.m. on the third clean air action day. If DEQ continues to declare clean air action days consecutively after the third day, the curtailment and loading pattern used for the third clean air action day will apply.

(8) Safety/Emergency Operations. Nothing in this rule is intended to:

(a) Require any act or omission that would be in violation of any regulation or other requirement of the United States Coast Guard; or

(b) Prevent any act that is necessary to secure the safety of a vessel or the safety of passengers or crew.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0120 Cutback and Emulsified Asphalt**

(1) Use of any cutback asphalts for paving roads and parking areas is prohibited during the months of April, May, June, July, August, September, and October, except as provided for in section (2).

(2) Slow curing (SC) and medium curing (MC) cutback asphalts are allowed during all months for the following uses and applications:

(a) Solely as a penetrating prime coat for aggregate bases prior to paving;

(b) For the manufacture of medium-curing patching mixes to provide long-period storage stockpiles used exclusively for pavement maintenance; or

(c) For all uses when the National Weather Service forecast of the high temperature during the 24-hour period following application is below 10° C. (50° F.).

(3) Rapid curing (RC) grades of cutback asphalt are always prohibited.

(4)(a) Use of emulsified asphalts is unrestricted if solvent content is kept at or less than the limits listed below. If these limits are exceeded, then the asphalt shall be classified as medium curing (MC) cutback asphalts, and shall be limited to only the uses permitted by section (2). (Grades of Emulsion Per AASHTO Designation M 208-72 -- Maximum Solvent Content by Weight.):

(A) CRS-1 -- 3%;

- (B) CRS-2 -- 3%;
- (C) CSS-1 -- 3%;
- (D) CSS-1h -- 3%;
- (E) CMS-2 -- 8%;
- (F) CMS-2h -- 8%;
- (G) CMS-2S --12%.

(b) Solvent content is determined by ASTM distillation test D-244.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0130 Petroleum Refineries**

This rule shall apply to all petroleum refineries:

#### **(1) Vacuum-Producing Systems:**

- (a) Noncondensable VOC from vacuum producing systems shall be piped to an appropriate firebox, incinerator or to a closed refinery system;
- (b) Hot wells associated with contact condensers shall be tightly covered and the collected VOC introduced into a closed refinery system.

#### **(2) Wastewater Separators:**

- (a) Wastewater separators' forebays shall incorporate a floating pontoon or fixed solid cover with all openings sealed totally enclosing the compartmented liquid contents, or a floating pontoon or double deck-type cover equipped with closure seals between the cover edge and compartment wall;
- (b) Accesses for gauging and sampling shall be designed to minimize VOC emissions during actual use. All access points shall be closed with suitable covers when not in use.

#### **(3) Process Unit Turnaround:**

- (a) The VOC contained in a process unit to be depressurized for turnaround shall be introduced to a closed refinery system, combusted by a flare, or vented to a disposal system;
- (b) The pressure in a process unit following depressurization for turnaround shall be less than 5



psig before venting to the ambient air.

(4) Maintenance and Operation of Emission Control Equipment: Equipment for the reduction, collection or disposal of VOC shall be maintained and operated in a manner commensurate with the level of maintenance and housekeeping of the overall plant.

(5) Recordkeeping: The owner or operator shall maintain a record of process unit turnarounds including an approximation of the quantity of VOC emitted to the atmosphere. Records shall be maintained for two years.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0140 Petroleum Refinery Leaks**

(1) All persons operating petroleum refineries must comply with this section concerning leaks:

(a) The owner or operator of a petroleum refinery complex, upon detection of a leaking component, which has a VOC concentration exceeding 10,000 ppm when tested in the manner described below must:

(A) Include the leaking component on a written list of scheduled repairs; and

(B) Repair and retest the component within 15 days.

(b) Except for safety pressure relief valves, no owner or operator of a petroleum refinery may install or operate a valve at the end of a pipe or line containing VOCs unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only when a sample is being taken during maintenance operations;

(c) Pipeline valves and pressure relief valves in gaseous VOC service must be marked in some manner that will be readily obvious to both refinery personnel performing monitoring and DEQ.

(2) Testing Procedures: Testing and calibration procedures to determine compliance with this rule must be done in accordance with EPA Method 21.

(3) Monitoring, Recordkeeping, Reporting:

(a) The owner or operator of a petroleum refinery must maintain, as a minimum, records of all testing conducted under this rule; plus records of all monitoring conducted under subsections (b) and (c);

(b) The owner or operator of a petroleum refinery subject to this rule must:

(A) Monitor yearly by the methods referenced in section (2) all:

(i) Pump seals;

(ii) Pipeline valves in liquid service; and

(iii) Process drains.

(B) Monitor quarterly by the methods referenced in section (2) all:

(i) Compressor seals;

(ii) Pipeline valves in gaseous service; and

(iii) Pressure relief valves in gaseous service.

(C) Monitor weekly by visual methods all pump seals;

(D) Monitor immediately any pump seal from which liquids are observed dripping;

(E) Monitor any relief valve within 24 hours after it has vented to the atmosphere; and

(F) Monitor immediately after repair of any component that was found leaking.

c) Pressure relief devices which are connected to an operating flare header, vapor recovery device, inaccessible valves, storage tank valves, or valves that are not externally regulated are exempt from the monitoring requirements in subsection (b);

d) The owner or operator of a petroleum refinery, upon the detection of a leaking component, must affix a weatherproof and readily visible tag bearing an identification number and the date the leak is located to the leaking component. This tag must remain in place until the leaking component is repaired;

(e) The owner or operator of a petroleum refinery, upon the completion of each yearly and/or quarterly monitoring procedure, must:

(A) Submit a report to DEQ on the 15th day of January, April, July, and September, listing the leaking components that were located but not repaired within the required time limit in subsection (1)(a);

(B) Submit a signed statement attesting to the fact that, with the exception of those leaking components listed in paragraph (A), all monitoring and repairs were performed as stipulated.

(f) The owner or operator of a petroleum refinery must maintain a leaking component monitoring log that contains, at a minimum, the following data:

(A) The name of the process unit where the component is located;

(B) The type of component, e.g., valve, seal;

(C) The tag number of the component;

- (D) The date on which a leaking component is discovered;
  - (E) The date on which a leaking component is repaired;
  - (F) The date and instrument reading of the recheck procedure after a leaking component is repaired;
  - (G) A record of the calibration of the monitoring instrument;
  - (H) Those leaks that cannot be repaired until turnaround, exceptions to the 15-day requirement of paragraph (1)(a)(B); and
  - (I) The total number of components checked and the total number of components found leaking.
- (g) Copies of all records and reports required by this section must be retained by the owner or operator for a minimum of five years after the date on which the record was made or the report submitted;
  - (h) Copies of all records and reports required by this section must immediately be made available to DEQ upon verbal or written request at any reasonable time;
  - (i) DEQ may, upon written notice, modify the monitoring, recordkeeping and reporting requirements.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0150 VOC Liquid Storage**

- (1) Owners or operators which have tanks storing methanol or other VOC liquids with a true vapor pressure, as stored, greater than 10.5 kPa (kilopascals) (1.52 psia), at actual monthly average storage temperatures, and having a capacity greater than 150,000 liters (approximately 39,000 gallons) must comply with one of the following:
  - a) Meet the equipment specifications and maintenance requirements of the federal standards of performance for new stationary sources -- Storage Vessels for Petroleum Liquids, 40 CFR part 60 subpart K and Ka; or
  - (b) Be retrofitted with a floating roof or internal floating cover using at least a nonmetallic resilient seal as the primary seal meeting the equipment specifications in the federal standards referred to in subsection (a) or its equivalent.
- (2) All seals used in subsections (1)(b) and (c) are to be maintained in good operating condition and the seal fabric may not contain visible holes, tears or other openings.
- (3) All openings, except stub drains and those related to safety, such as slotted gage wells, are to be sealed with suitable closures. All tank gauging and sampling devices must be gas-tight except

when gauging or sampling is taking place; except for slotted gage wells which must have floating seals with one-half inch edge gaps or less.

(4) Secondary Seals:

a) Applicability: Subsection (c) applies to all VOC liquid storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (39,000 gallons) except as indicated in subsection (c) and paragraph (c)(H);

(b) Exemptions: Subsection (c) does not apply to petroleum liquid storage vessels which:

(A) Are used to store waxy, heavy pour crude oil;

(B) Have capacities less than 1,600,000 liters (420,000 gallons) and are used to store produced crude oil and condensate prior to lease custody transfer;

(C) Contain a VOC liquid with a true vapor pressure of less than 10.5 kPa (1.5 psia) where the vapor pressure is measured at the storage temperature;

(D) Contain a VOC liquid with a true vapor pressure less than 27.6 kPa (4.0 psia); that

(i) Are of welded construction; and

(ii) Presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by DEQ; or

(E) Are of welded construction, equipped with a metallic-type shoe primary seal and has a secondary seal from the top of the shoe seal to the tank wall (shoemounted secondary seal).

(c) No owner of a VOC liquid storage vessel subject to this rule may store VOC liquid in that vessel unless:

(A) The vessel has been fitted with:

(i) A continuous secondary seal extending from the floating roof to the tank wall (rim-mounted secondary seal); or

(ii) A closure or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required under subparagraph (A)(i) as approved in writing by DEQ.

(B) All seal closure devices meet the following requirements:

(i) There are no visible holes, tears, or other openings in the seals or seal fabric;

(ii) The seals are intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and

(iii) For vapor mounted seals, the accumulated area of gaps exceeding 0.32 cm (1/8 inch) in width between the secondary seal and the tank wall are determined by the method in subsection (d) and must not exceed 21.2 cm<sup>2</sup> per meter of tank diameter (1.0 in<sup>2</sup> per foot of tank diameter).

(C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:

(i) Equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and

(ii) Equipped with projections into the tank which remain below the liquid surface at all times.

(D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports;

(E) Rim vents are set to open only when the roof is being floated off the leg supports or at the manufacturer's recommended setting;

(F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least 90 percent of the area of the opening; and

(G) The owner or operator of a VOC liquid storage vessel with an external floating roof subject to subsection (c) must:

(i) Perform routine inspections semi-annually in order to ensure compliance with paragraphs (A) through (F) and the inspections must include a visual inspection of the secondary seal gap;

(ii) Measure the secondary seal gap annually in accordance with subsection (d) when the floating roof is equipped with a vapor-mounted primary seal; and

(iii) Maintain records of the types of VOC liquids stored, the maximum true vapor pressure of the liquid as stored, and the results of the inspections performed in subparagraphs (G)(i) and (ii).

(H) The owner or operator of a VOC liquid storage vessel having a capacity equal to or less than 150,000 liters (39,000 gallons) with an external floating roof, but containing a VOC liquid with a true vapor pressure greater than 7.00 kPa (1.0 psi), must maintain records of the average monthly storage temperature, the type of liquid, and the maximum true vapor pressure for all VOC liquids with a true vapor pressure greater than 7.0 kPa;

(I) The owner or operator of a VOC liquid storage vessel subject to this rule, must submit to DEQ, as a minimum, annual reports summarizing the inspections;

(J) Copies of all records and reports under paragraphs (G) (H), and (I) must be retained by the owner or operator for a minimum of five years after the date on which the record was made or the report submitted;

(K) Copies of all records and reports under this section must immediately be made available to DEQ, upon verbal or written request, at any reasonable time;

(L) DEQ may, upon written notice, require more frequent reports or modify the monitoring and recordkeeping requirements, when necessary to accomplish the purposes of this rule.

(d) Secondary Seal Compliance Determination:

(A) The owner or operator of any VOC source required to comply with section (4) must demonstrate compliance by the methods of this section or an alternative method;

(B) A person proposing to conduct a VOC emissions test must notify DEQ of the intent to test not less than 30 days before the proposed initiation of the tests so DEQ may observe the test. The notification must contain the information required by, and be in a format approved by DEQ;

(C) Compliance with subparagraph (4)(c)(B)(iii) is determined by:

(i) Physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 0.32 cm (1/8 inch) uniform diameter probe passes freely (without forcing or binding against the seal) between the seal and tank wall; and

(ii) Summing the area of the individual gaps.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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).

(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 less than 10 tons per year (or 3 pounds VOC/hour or 15 pounds actual VOC/day); or

(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 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 nonmethane 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **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 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 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0180 Degreasers**

Cold cleaners, open top vapor degreasers, and conveyORIZED degreasers are exempt from this rule if they use fluids which are not photochemically reactive. These fluids are defined in the definition of VOC under OAR 340-200-0020.

(1) The owner or operator of dip tank cold cleaners must comply with the equipment specifications in this section:

(a) Be equipped with a cover that is readily opened and closed. This is required of all cold cleaners, whether a dip tank or not;

(b) Be equipped with a drain rack, suspension basket, or suspension hoist that returns the drained solvent to the solvent bath;

(c) Have a freeboard ratio of at least 0.5;

(d) Have a visible fill line.

(2) An owner or operator of a cold cleaner must follow the required operating parameters and work practices. The owner must post and maintain in the work area of each cold cleaner a pictograph or instructions clearly explaining the work practices in this section:

(a) The solvent level may not be above the fill line;

(b) The spraying of parts to be cleaned must be performed only within the confines of the cold cleaner;

(c) The cover of the cold cleaner must be closed when not in use or when parts are being soaked or cleaned by solvent agitation;

(d) Solvent-cleaned parts must be rotated to drain cavities or blind holes and then set to drain until dripping has stopped;

(e) Waste solvent must be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, such that no greater than 20 percent of the waste by weight can evaporate into the atmosphere. Handling of the waste must also be done in accordance with DEQ's solid and Hazardous Waste Rules, OAR 340 division 100.

(3) The owner or operator must maintain cold cleaners in good working condition and free of solvent leaks.

(4) If the solvent has a volatility greater than 2.0 kPa (0.3 psi) measured at 38° C. (100° F.), or if the solvent is agitated or heated, then the cover must be designed so that it can be easily operated with one hand or foot.

(5) If the solvent has a volatility greater than 4.3 kPa (0.6 psi) measured at 38° C. (100° F.), then the drainage facility must be internal, so that parts are enclosed under the cover while draining. The drainage facility may be external for applications where an internal type cannot fit into the cleaning system.

(6) If the solvent has a volatility greater than 4.3 kPa (0.6 psi) measured at 38° C. (100° F.), or if the solvent is heated above 50° C. (120° F.), then one of the following solvent vapor control systems must be used:

(a) The freeboard ratio must be equal to or greater than 0.70; or

(b) Water must be kept over the solvent, which must be insoluble in and heavier than water; or

(c) Other systems of equivalent control, such as a refrigerated chiller.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0190 Open Top Vapor Degreasers**

(1) The owner or operator of all open top vapor degreasers must comply with the following equipment specifications:

(a) Be equipped with a cover that may be readily opened and closed. When a degreaser is equipped with a lip exhaust, the cover must be located below the lip exhaust. The cover must move horizontally or slowly so as not to agitate and spill the solvent vapor. The degreaser must be equipped with at least the following three safety switches:

(A) Condenser flow switch and thermostat to shut off sump heat if coolant is either not circulating or too warm;

(B) Spray safety switch to shut off spray pump or conveyor if the vapor level drops excessively, (e.g., greater than 10 cm (4 inches));

(C) Vapor level control thermostat to shut off sump heat when vapor level rises too high.

(b)(A) A closed design such that the cover opens only when the part enters or exits the degreaser and when the degreaser starts up, forming a vapor layer, the cover may be opened to release the displaced air, and either;

(B) A freeboard ratio equal to or greater than 0.75; or

(C) A freeboard, refrigerated or cold water, chiller.

(c) Post a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:

(A) Do not degrease porous or absorbent materials such as cloth, leather, wood or rope;

(B) The cover of the degreaser must be closed at all times except when processing workloads;

(C) When the cover is open the lip of the degreaser must not be exposed to steady drafts greater than 15.3 meters per minute (50 feet/minute);

(D) Rack parts so as to facilitate solvent drainage from the parts;

(E) Workloads must not occupy more than one-half of the vapor-air interface area;

(F) When using a powered hoist, the vertical speed of parts in and out of the vapor zone must be less than 3.35 meters per minute (11 feet/minute);

(G) Degrease the workload in the vapor zone until condensation ceases;

- (H) Spraying operations must be done within the vapor layer;
- (I) Hold parts in the degreaser until visually dry;
- (J) When equipped with a lip exhaust, the fan must be turned off when the cover is closed;
- (K) The condenser water must be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater must be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser;
- (L) Water may not be visible in the solvent stream from the water separator.
- (2) A routine inspection and maintenance program must be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.
- (3) Sump drainage and transfer of hot or warm solvent must be carried out using threaded or other leakproof couplings.
- (4) Still and sump bottoms must be kept in closed containers.
- (5) Waste solvent must be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, such that no greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. Handling of the waste must also be done in accordance with DEQ's Solid and Hazardous Waste Rules, OAR 340 division 100.
- (6) Exhaust ventilation may not exceed 20 cubic meters/minute per square meter (65 cubic feet per minute per square foot) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans may not be used near the degreaser opening.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0200 ConveyORIZED Degreasers**

- (1) The owner or operator of conveyORIZED cold cleaners and conveyORIZED vapor degreasers must comply with the following operating requirements:
  - (a) Exhaust ventilation must not exceed 20 cubic meters per minute per square meter (65 cubic feet per minute per square foot) of degreaser opening, unless necessary to meet OSHA requirements. Workplace fans must not be used near the degreaser opening;
  - (b) Post in the immediate work area a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:
    - (A) Rack parts for best drainage;

(B) Maintain vertical speed of conveyed parts to less than 3.35 meters per minute (11 feet/minute);

(C) The condenser water must be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater must be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.

(2) A routine inspection and maintenance program must be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.

(3) Sump drainage and transfer of hot or warm solvent must be carried out using threaded or other leakproof couplings.

(4) Still and sump bottoms must be kept in closed containers.

(5) Waste solvent must be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, such that no greater than 20 percent of the waste by weight can evaporate into the atmosphere. Handling of the waste must also be done in accordance with DEQ's Solid and Hazardous Waste Rules, OAR 340 division 100.

(6) All conveyORIZED cold cleaners and conveyORIZED vapor degreasers with air/vapor interfaces of 2.0 m<sup>2</sup> or greater must have one of the following major control devices installed and operating:

(a) Carbon adsorption system, exhausting less than 25 ppm of solvent averaged over a complete adsorption cycle, based on exhaust ventilation of 15 m<sup>3</sup>/minutes per m<sup>2</sup> of air/vapor area, when down-time covers are open; or

(b) Refrigerated chiller with control effectiveness equal to or better than subsection (a); or

(c) A system with control effectiveness equal to or better than subsection (a).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0210 Asphaltic and Coal Tar Pitch Used for Roofing Coating**

(1) No person shall operate or use equipment for melting, heating or holding asphalt or coal tar pitch for the on-site construction, installation, or repair of roofs unless the gas-entrained effluents from such equipment are contained by close fitting covers.

(2) A person operating equipment subject to this rule shall maintain the temperature of the asphaltic or coal tar pitch below 285° C. (550° F.), or 17° C. (30° F.) below the flash point whichever is the lower temperature, as indicated by a continuous reading thermometer.



(3) The provisions of this rule shall not apply to equipment having a capacity of 100 liters (26 gallons) or less; or to equipment having a capacity of 600 liters (159 gallons) or less provided it is equipped with a tightly fitted lid or cover.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0220 Flat Wood Coating**

(1) This rule applies to all flat wood manufacturing and surface finishing facilities that manufacture the following products:

(a) Printed interior panels made of hardwood plywood and thin particleboard;

(b) Natural finish hardwood plywood panels; or

(c) Hardboard paneling with Class II finishes.

(2) This rule does not apply to the manufacture of exterior siding, tileboard, particleboard used as a furniture component, or paper or plastic laminates on wood or wood-derived substrates.

(3) No owner or operator of a flat wood manufacturing facility subject to this rule may emit VOCs from a coating application system in excess of:

(a) 2.9 kilograms per 100 square meters of coated finished product (6.0 pounds/1,000 square feet) from printed interior panels, regardless of the number of coats applied;

(b) 5.8 kilograms per 100 square meters of coated finished product (12.0 pounds/1,000 square feet) from natural finish hardwood plywood panels, regardless of the number of coats applied; and

(c) 4.8 kilograms per 100 square meters of coated finished product (10.0 pounds/1,000 square feet) from Class II finishes on hardboard panels, regardless of the number of coats applied.

(4) The emission limits in section (3) must be achieved by:

(a) The application of low solvent content coating technology; or

(b) An incineration system which oxidizes at least 90.0 percent of the nonmethane 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 in writing by DEQ. The time period used to determine equivalency may not exceed 24 hours.

5) A capture system must be used in conjunction with the control devices in subsections (4)(b) and (c). The design and operation of a capture system must be consistent with good engineering

practice and must provide for an overall emission reduction sufficient to meet the emission limitations in section (3).

(6) Compliance Demonstration:

(a) The owner or operator of a VOC source required to comply with this rule must demonstrate compliance by the methods of subsection (c), or an alternative method approved by DEQ;

(b) A person proposing to conduct a VOC emissions test must notify DEQ of the intent to test not less than 30 days before the proposed initiation of the tests so DEQ may observe the test;

(c) Test procedures in 40 CFR part 60, EPA Method 18, 24, or 25 must be used to determine compliance with section (3);

(d) DEQ may accept, instead of the coating analysis required by paragraph (c)(A), a certification by the coating manufacturer of the composition of the coating, if supported by actual batch formulation records. In the event of any inconsistency between a Method 18, 24, or 25 test and a facility's formulation data, the Method 18, 24, or 25 test will govern;

(e) If an add-on control device is used, continuous monitors of the following parameters must be installed, periodically calibrated, and operated at all times that the associated control device is operating:

(A) Exhaust gas temperature of all incinerators;

(B) Temperature rise across a catalytic incinerator bed; and

(C) Breakthrough of VOC on a carbon absorption unit.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-232-0230 Rotogravure and Flexographic Printing**

(1) No owner or operator of a packaging rotogravure, publication rotogravure, flexographic or specialty printing facility, with the potential to emit before add on controls greater than 100 tons/year, employing ink containing solvent may operate, cause, allow or permit the operation of the press unless:

(a) The volatile fraction of ink, as it is applied to the substrate contains 25.0 percent by volume or less of organic solvent and 75 percent by volume or more of water;

(b) The ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more nonvolatile material; or

(c) The owner or operator installs and operates:

(A) A carbon absorption system which reduces the volatile organic emissions from the capture system by at least 90.0 percent by weight;

(B) An incineration system which oxidizes at least 90.0 percent of the nonmethane VOCs, VOC measured as total combustible carbon, to carbon dioxide and water; or

(C) An alternative VOC pollution control device demonstrated to have at least a 90.0 percent removal efficiency, measured across the air pollution control device, that has been approved by DEQ.

2) A capture system must be used in conjunction with the air pollution control devices in subsection (1)(c). The design and operation of a capture system must be consistent with good engineering practice, and must provide for a control efficiency in VOC emissions of at least:

(a) 75.0 percent where a publication rotogravure process is employed;

(b) 65.0 percent where a packaging rotogravure process is employed; or

(c) 60.0 percent where a flexographic printing process is employed.

(3) Compliance Demonstration:

(a) Upon request of DEQ, the owner or operator of a VOC source must demonstrate compliance by the methods of this section or an alternative method approved by DEQ. All tests must be made by, or under the direction of, a person qualified by training and/or experience in the field of air pollution testing;

(b) A person proposing to conduct a VOC emissions test must notify DEQ of the intent to test not less than 30 days before the proposed initiation of the tests so DEQ may observe the test. The notification must contain the information required by, and be in a format approved by, DEQ;

(c) Test procedures to determine compliance with this rule must be approved by DEQ and consistent with:

(A) EPA Test Method 18, 24, or 25, 40 CFR part 60; or California Method ST-7; or

(B) DEQ may accept, instead of ink-solvent analysis, a certification by the ink manufacturer of the composition of the ink-solvent, if supported by actual batch formulation records. In the event of any inconsistency between an EPA Method test and a facility's formulation data, the EPA Method test will govern.

(d) If an add-on control device is used, continuous monitors of the following parameters must be installed, periodically calibrated, and operated at all times that the associated control device is operating:

(A) Exhaust gas temperature of all incinerators;

(B) Breakthrough of VOC on a carbon adsorption unit; and

(C) Temperature rise across a catalytic incinerator bed.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 234**

### **EMISSION STANDARDS FOR WOOD PRODUCTS INDUSTRIES**

#### **340-234-0005 Applicability and Jurisdiction**

(1) This division applies in all areas of the state.

(2) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **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 OAR 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. (b) As used in OAR 340-234-0400 through 340-234-0430 means

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

(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" (a) 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" (a) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## WIGWAM WASTE BURNERS

### **340-234-0100 Wigwam Waste Burners**

(1) Operation of wigwam waste burners is prohibited.

(2) Emissions from wigwam waste burners included in a source's netting basis as of October 18, 2007 shall not be subtracted from the netting basis, except as provided in OAR 340-222-0046.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-234-0140 Existing Administrative Agency Orders**

The provisions of OAR 340-234-0100 supersede any specific existing agency orders directed against specific parties or persons to abate air pollution.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## KRAFT PULP MILLS

### **340-234-0200 Statement of Policy and Applicability**

(1) Policy. Recent technological developments have enhanced the degree of malodorous emission control possible for the kraft pulping process. While recognizing that complete malodorous and particulate emission control is not presently possible, consistent with the meteorological and geographical conditions in Oregon, it is hereby declared to be the policy of DEQ to:

(a) Require, in accordance with a specific program and time table for all sources at each operating mill, the highest and best practicable treatment and control of atmospheric emissions from kraft mills through the utilization of technically feasible equipment, devices, and

procedures. Consideration will be given to the economic life of equipment, which when installed, complied with the highest and best practicable treatment requirement.

(b) Require degrees and methods of treatment for major and minor emission points that will minimize emissions of odorous gases and eliminate ambient odor nuisances.

(c) Require effective monitoring and reporting of emissions and reporting of other data pertinent to air quality or emissions. DEQ will use these data in conjunction with ambient air data and observation of conditions in the surrounding area to develop and revise emission and ambient air standards, and to determine compliance therewith.

(d) Encourage and assist the kraft pulping industry to conduct a research and technological development program designed to progressively reduce kraft mill emissions, in accordance with a definite program, including specified objectives and time schedules.

(2) Applicability. OAR 340-234-0200 through 340-234-0270 apply to existing and new kraft pulp mills.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-234-0210 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 10 ppm and 0.15 Kg/metric ton (0.30 pound/ton) of production as daily arithmetic averages;~~

~~(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 5 ppm and 0.075 Kg/metric ton (0.150 pound/ton) of production as daily arithmetic averages.~~

~~(b) Lime Kilns. Lime kilns must be operated and controlled such that emissions of TRS may not exceed 20 ppm as a daily arithmetic average and 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 (SO<sub>2</sub>). 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) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-234-0220 More Restrictive Emission Limits**

The DEQ may establish more restrictive emission limits than the numerical emission standards contained in OAR 340-234-0210 and maximum allowable daily mill site emission limits in kilograms or pounds per day for an individual mill upon a finding by DEQ that:

(1) The individual mill is located or is proposed to be located in a special problem area or an area where ambient air standards are exceeded or are projected to be exceeded or where the emissions will have a significant impact in an area where the standards are exceeded; or

~~(2) An odor or nuisance problem has been documented at any mill, in which case the TRS emission limits may be reduced below the regulatory limits; or DEQ may require the mill to undertake an odor emission reduction study program; or~~

(3) Other rules which are more stringent apply.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-234-0240 Monitoring**

~~(1) Total Reduced Sulfur (TRS). Each mill must continuously monitor TRS using the following:~~

~~(a) The monitoring equipment must determine compliance with the emission limits and reporting requirements established by OAR 340-234-0200 through 340-234-0270, and must continuously sample and record concentrations of TRS;~~

~~b) The sources monitored must include, but are not limited to individual recovery furnaces, and lime kilns. All sources must be monitored down stream of their respective control devices, in either the ductwork or the stack, using the DEQ Continuous Monitoring Manual;~~

~~(c) Unless otherwise authorized or required by permit, at least once per year, vents from other sources as required in OAR 340-234-0210(1)(c), other sources, must be sampled to demonstrate the representativeness of the emission of TRS using EPA Method 16, 16A, 16B or continuous emission monitors. Sampling using these EPA methods must consist of three separate consecutive runs of one hour each using the DEQ Source Sampling Manual. Continuous emissions monitors must be operated for three consecutive hours using the DEQ Continuous Monitoring Manual. All results must be reported to DEQ;~~

~~(d) Smelt dissolving tank vents must be sampled for TRS quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.0124 gram/Kg BLS (0.025 pound/ton BLS) using EPA Method 16, 16A, 16B or continuous emission monitors. Sampling~~

~~using these EPA methods must consist of three separate consecutive runs of one hour each using the DEQ Source Sampling Manual.~~

(2) Particulate Matter:

(a) Each mill must sample the recovery furnace, lime kiln and smelt dissolving tank vent for particulate emissions as measured by EPA Method 5 or 17 using the DEQ Source Sampling Manual. Particulate matter emission determinations by EPA Method 5 must use water as the cleanup solvent instead of acetone, and consist of the average of three separate consecutive runs having a minimum sampling time of 60 minutes each, a maximum sampling time of eight hours each, and a minimum sampling volume of 31.8 dscf each.

(A) When applied to recovery furnace gases "dry standard cubic meter" requires adjustment of the gas volume to that which would result in a concentration of 8% oxygen if the oxygen concentration exceeds 8%.

(B) When applied to lime kiln gases "dry standard cubic meter" requires adjustment of the gas volume to that which would result in a concentration of 10% oxygen if the oxygen concentration exceeds 10%.

(C) The mill must demonstrate that oxygen concentrations are below the values in (A) and (B) above or furnish oxygen levels and corrected data.

(b) Each mill must provide continuous monitoring of opacity of emissions discharged to the atmosphere from each recovery furnace stack using the DEQ Continuous Monitoring Manual.

(c) Recovery furnace particulate source tests must be performed quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.225 gram/dscm (0.097 grain/dscf) for furnaces subject to OAR 340-234-0210(2)(a) or 0.075 gram/dscm (0.033 grain/dscf) for furnaces subject to OAR 340-234-0210(2)(d)(A);

(d) Lime kiln source tests must be performed semi-annually;

(e) Smelt dissolving tank vent source tests must be performed quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.187 kilogram per metric ton (0.375 pound per ton) of production.

(3) Sulfur Dioxide (SO<sub>2</sub>). Representative sulfur dioxide emissions from each recovery furnace must be determined at least once each month by the average of three one-hour source tests using the DEQ Source Sampling Manual or from continuous emission monitors. If continuous emission monitors are used, the monitors must be operated for three consecutive hours using the DEQ Continuous Monitoring Manual.

(4) Combined Monitoring. DEQ may allow the monitoring for opacity of a combination of more than one emission stream if each individual emission stream has been demonstrated with the

exception of opacity to be in compliance with all the emission limits of OAR 340-234-0210. DEQ may establish more stringent emission limits for the combined emission stream.

5) New Source Performance Standards Monitoring. New or modified sources that are subject to the New Source Performance Standards, 40 CFR part 60 subpart BB, must conduct monitoring or source testing as required by subpart BB. In addition, when these rules are more stringent than 40 CFR part 60 subpart BB, DEQ may require some or all of the relevant monitoring in this section.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-234-0250 Reporting**

If required by DEQ or by permit, each mill must report data each calendar month by the last day of the subsequent calendar month as follows:

~~(1) Applicable daily average emissions of TRS gases expressed in parts per million of H<sub>2</sub>S on a dry gas basis with oxygen concentrations, if oxygen corrections are required, for each source included in the approved monitoring program.~~

~~(2) Daily average emissions of TRS gases in pounds of total reduced sulfur per equivalent ton of pulp processed, expressed as H<sub>2</sub>S, for each source included in the approved monitoring program.~~

(3) Maximum daily three-hour average emission of SO<sub>2</sub> based on all samples collected from the recovery furnace, expressed as ppm, dry basis.

(4) All daily average opacities for each recovery furnace stack where transmissometers are utilized.

(5) All six-minute average opacities from each recovery furnace stack that exceeds 35 percent.

(6) Daily average kilograms of particulate per equivalent metric ton (pounds of particulate per equivalent ton) of pulp produced for each recovery furnace stack.

(7) Unless otherwise approved in writing, all periods of non-condensable gas bypass must be reported.

(8) Each kraft mill must furnish, upon request of DEQ, such other pertinent data as DEQ may require to evaluate the mill's emission control program.

(9) Monitoring data reported must reflect actual observed levels corrected for oxygen, if required, and analyzer calibration.

(10) Oxygen concentrations used to correct regulated pollutant data must reflect oxygen concentrations at the point of measurement of regulated pollutants.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-234-0270 Chronic Upset Conditions**

If DEQ determines that an upset condition is chronic and correctable by installing new or modified process or control procedures or equipment, the owner or operator must submit to DEQ a program and schedule to effectively eliminate the deficiencies causing the upset conditions. Such reoccurring upset conditions causing emissions in excess of applicable limits may be subject to civil penalty or other appropriate action.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **BOARD PRODUCTS INDUSTRIES (VENEER, PLYWOOD, PARTICLEBOARD, HARDBOARD)**

#### **340-234-0500 Applicability and General Provisions**

(1) OAR 340-234-0500 through 340-234-0530 establish minimum performance and emission standards for veneer, plywood, particleboard, and hardboard manufacturing operations.

(2) Emission limitations established herein are in addition to, and not in lieu of, general emission standards for visible emissions, fuel burning equipment, and refuse burning equipment, except as provided for in OAR 340-234-0510.

(3) Each affected veneer, plywood, particleboard, and hardboard plant must proceed with a progressive and timely program of air pollution control. Each plant must, at the request of DEQ submit periodic reports in such form and frequency as directed to demonstrate the progress being made toward full compliance with OAR 340-234-0500 through 340-234-0530.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **340-234-0510 Veneer and Plywood Manufacturing Operations**

(1) Veneer Dryers:

(a) Consistent with OAR 340-234-0500(1) through (3), it is the object of this section to control air contaminant emissions, including, but not limited to, condensable hydrocarbons such that visible emissions from each veneer dryer are limited to a level which does not cause a characteristic "blue haze" to be observable;

(b) No person may operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:

(A) A daily average operating opacity of 10 percent on more than two days within any 12-month period, with the days separated from each other by at least 30 days, as measured by EPA Method 9; and

(B) A maximum opacity of 20 percent at any time as measured by EPA Method 9.

c) Particulate emissions from wood fired veneer dryers may not exceed:

(A) 0.75 pounds per 1,000 square feet of veneer dried (3/8 inch basis) for units using fuel which has a moisture content equal to or less than 20 percent by weight on a wet basis as measured by ASTM D4442-84;

(B) 1.50 pounds per 1,000 square feet of veneer dried (3/8 inch basis) for units using fuel which has a moisture content greater than 20 percent by weight on a wet basis as measured by ASTM D4442-84; or

(C) 0.40 pounds per 1,000 pounds of steam generated in boilers which exhaust gases to the veneer dryer.

(d) Exhaust gases from fuel burning equipment vented to the veneer dryer are exempt from OAR 340-228-0210;

(e) Each veneer dryer must be maintained and operated at all times such that air contaminant generating processes and all contaminant control devices must be at full efficiency and effectiveness so that the emission of air contaminants are kept at the lowest practicable levels;

(f) No person may willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule;

(g) Where effective measures are not taken to minimize fugitive emissions, DEQ may require that the equipment or structures in which processing, handling, and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air;

(h) DEQ may require more restrictive emission limits than provided in subsections (1)(b) and(c) for an individual plant upon a finding by the EQC that the individual plant is located or is proposed to be located in a special problem area. The more restrictive emission limits for special problem areas may be established on the basis of allowable emissions expressed in opacity, pounds per hour, or total maximum daily emissions to the atmosphere, or a combination thereof.

(2) Other Emission Sources:

(a) The combined particulate emissions from veneer and plywood mill sources, including, but not limited to, sanding machines, saws, presses, barkers, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, and truck loading and unloading facilities must not exceed a plant specific average hourly emission rate, pounds/hour, determined by multiplying the plant production capacity by one pound per 1,000 square feet. The plant production capacity is the maximum production in terms of 1,000 square feet on a 3/8 inch basis

of finished product for a typical operating shift divided by the number of hours in the operating shift.

(b) Excepted from subsection (2)(a) are veneer dryers, fuel burning equipment, and refuse burning equipment.

(c) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.

(3) Monitoring and Reporting: DEQ may require any veneer dryer facility to establish an effective program for monitoring the visible air contaminant emissions from each veneer dryer emission point. The program must be reviewed and approved by DEQ and must consist of the following:

(a) A specified minimum frequency for performing visual opacity determinations on each veneer dryer emission point;

(b) All data obtained must be recorded on copies of a "Veneer Dryer Visual Emissions Monitoring Form" provided by DEQ or on an alternative form which is approved by DEQ; and

(c) A specified period during which all records must be maintained at the mill site for inspection by authorized representatives of DEQ.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-234-0520 Particleboard Manufacturing Operations**

(1) Truck Dump and Storage Areas:

(a) Every person operating or intending to operate a particleboard manufacturing plant must enclose truck dump and storage areas holding or intended to hold raw materials to prevent windblown particle emissions from these areas from being deposited upon property not under the ownership of said person;

(b) The temporary storage of raw materials outside the regularly used areas of the plant site is prohibited unless the person who desires to temporarily store such raw materials first notifies DEQ and receives written approval for said storage:

(A) When authorized by DEQ, temporary storage areas must be operated to prevent windblown particulate emissions from being deposited upon property not under the ownership of the person storing the raw materials;

(B) Any temporary storage areas authorized by DEQ may not be operated in excess of six (6) months from the date they are first authorized.

(c) Any person who proposes to control windblown particulate emissions from truck dump storage areas other than by enclosure must apply to DEQ for written authorization to utilize alternative controls. The application must describe in detail the plan proposed to control windblown particulate emissions and indicate on a plot plan the nearest location of property not under ownership of the applicant.

(2) Other Emission Sources:

(a) The combined particulate emissions from particleboard plant sources including, but not limited to, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, particle dryers, classifiers, presses, sanding machines, and materials handling systems must not exceed a plant specific average hourly emission rate, pounds per hour, determined by multiplying the plant production capacity by three pounds per 1000 square feet. The plant production capacity is the maximum production in terms of 1,000 square feet on a  $\frac{3}{4}$  inch basis of finished product for a typical operating shift divided by the number of hours in the operating shift.

(b) Excepted from subsection (2)(a) are truck dump and storage areas, fuel burning equipment, and refuse burning equipment.

(c) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-234-0530 Hardboard Manufacturing Operations**

(1) Truck Dump and Storage Areas:

(a) Every person operating or intending to operate a hardboard manufacturing plant must enclose all truck dump and storage areas holding or intended to hold raw materials to prevent windblown particle emissions from these areas from being deposited upon property not under the ownership of said person;

(b) The temporary storage of raw materials outside the regularly used areas of the plant site is prohibited unless the person who desires to temporarily store such raw materials first notifies DEQ and receives written approval:

(A) When authorized by DEQ, temporary storage areas must be operated to prevent windblown particulate emissions from being deposited upon property not under the ownership of the person storing the raw materials;

(B) Any temporary storage areas authorized by DEQ may not be operated in excess of six (6) months from the date they are first authorized.



(c) Alternative Means of Control. Any person who desires to control windblown particulate emissions from truck dump and storage areas other than by enclosure must first apply to DEQ for written authorization to utilize alternative controls. The application must describe in detail the plan proposed to control windblown particulate emissions and indicate on a plot plan the nearest location of property not under ownership of the applicant.

(2) Other Emission Sources:

(a) For hardboard plants that did not exist during the baseline period, the combined particulate emissions from all emissions sources at the plant must not exceed a plant specific hourly average emission rate, pounds per hour, determined by multiplying the plant production capacity by one pound per 1,000 square feet of production. The plant production capacity is the maximum production in terms of 1000 square feet on a 1/8 inch finished basis for a typical operating shift divided by the number of hours in the operating shift.

(b) For hardboard plants that existed during the baseline period, the combined particulate emissions from the plant must not exceed the lesser of:

(A) A plant specific hourly average emission rate, pounds per hour, determined by multiplying the plant production capacity by two pounds per 1,000 square feet of production. The plant production capacity is the maximum production in terms of 1,000 square feet on a 1/8 inch finished basis for a typical operating shift divided by the number of hours in the operating shift, or

(B) The sum of the baseline emissions rate, pounds per hour, of the press/cooling vent and the lesser of:

(i) The baseline emissions rate, pounds per hour, from all sources at the plant, excluding the press/cooling vents; or

(ii) A plant specific hourly average emission rate, pounds per hour, determined by multiplying the plant production capacity by one pound per 1,000 square feet of production. The plant production capacity is the maximum production in terms of 1,000 square feet on a 1/8 inch finished basis for a typical operating shift divided by the number of hours in the operating shift.

(c) Excepted from subsections (a) and (b) are truck dump and storage areas, fuel burning equipment, and refuse burning equipment.

(d) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.

(3) Emissions from Hardboard Tempering Ovens:

(a) No person may operate any hardboard tempering oven unless all gases and vapors emitted from said oven are treated in a fume incinerator capable of raising the temperature of said gases and vapors to at least 1500° F. for 0.3 seconds or longer except as allowed by paragraph (b);

b) Specific operating temperatures lower than 1500° F. may be approved by DEQ using the procedures in 40 CFR 63.2262 of the NESHAP for Plywood and Composite Wood Products.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-234-0540 Testing and Monitoring**

All source tests must be done using the DEQ Source Sampling Manual.

(1) Veneer dryers, wood particle dryers, fiber dryers and press/cooling vents must be tested using DEQ Method 7.

(2) Air conveying systems must be tested using DEQ Method 8.

(3) Fuel burning equipment must be tested using DEQ Method 5. When combusting wood fuel by itself or in combination with any other fuel, the emission results are corrected to 12% CO<sub>2</sub>. When combusting fuels other than wood, the emission results are corrected to 50% excess air.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 236**

### **EMISSION STANDARDS FOR SPECIFIC INDUSTRIES**

#### **340-236-0005 Applicability and Jurisdiction**

(1) This division applies in all areas of the state.

(2) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **340-236-0010 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

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

(2) "Dusts" means minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, or sweeping.

(3) "Hot mix asphalt plants" means those facilities and equipment which convey or batch load proportioned quantities of cold aggregate to a drier, and heat, dry, screen, classify, measure, and mix the aggregate with asphalt for purposes of paving, construction, industrial, residential, or commercial use.

(4) "Portable hot mix asphalt plants" means those hot mix asphalt plants which are designed to be dismantled and are transported from one job site to another job site.

(5) "Process weight" means the total weight of all materials introduced into any specific process which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. The "process weight per hour" will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

(6) "Special control areas" means an area designated in OAR 340-204-0070 and:

(a) Any incorporated city or within six miles of the city limits of said incorporated city;

(b) Any area of the state within one mile of any structure or building used for a residence;

(c) Any area of the state within two miles straight line distance or air miles of any paved public road, highway, or freeway having a total of two or more traffic lanes.

*State effective: 7/19/2019; EPA approval: 06/09/2020, 85 FR 35198; EPA effective: 07/09/2020*

## HOT MIX ASPHALT PLANTS

### **340-236-0400 Applicability**

OAR 340-236-0400 through 340-236-0440 apply to hot mix asphalt plants.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-236-0410 Control Facilities Required**

(1) No person may operate any hot mix asphalt plant, either portable or stationary, located within any area of the state outside special control areas unless all dusts and gaseous effluents generated by the hot mix asphalt plant are controlled by a control device or devices with a removal efficiency for particulate matter of at least 80 percent by weight. To determine compliance with this standard, the owner or operator must conduct a particulate matter source test using DEQ Method 5 at the inlet and outlet of the control device. If it is not feasible to conduct a particulate

matter source test at the inlet to the control device, the owner or operator must provide documentation demonstrating that the control device is designed to meet the standard and prepare and implement an operation and maintenance plan for ensuring that the control device will have at least an 80 percent removal efficiency when operated.

(2) No person may operate any hot mix asphalt plant, either portable or stationary, located within any special control area of the state without installing and operating systems or processes for the control of particulate emissions so as to comply with the emission limits established by the process weight table, OAR 340-236-8010, attached herewith and by reference made a part of this rule. Compliance is determined using DEQ Method 5. All source tests must be done using the DEQ Source Sampling Manual.

(3) Hot mix asphalt plants are subject to the emission limitations in OAR 340-208-0110(1), 340-226-0210, and 340-238-0060, as applicable.

(4) If requested by DEQ, the owner or operator must develop a fugitive emission control plan.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-236-0420 Other Established Air Quality Limitations**

The emission limits established under OAR 340-236-0400 through 340-236-0440 are in addition to visible emission and other ambient air standards, established or to be established by the EQC, unless otherwise provided by rule.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-236-0440 Ancillary Sources of Emission - Housekeeping of Plant Facilities**

(1) Ancillary air contamination sources from a hot mix asphalt plant and its facilities which emit air contaminants into the atmosphere such as, but not limited to, the drier openings, screening and classifying system, hot rock elevator, bins, hoppers, and pug mill mixer, must be controlled at all times so as to maintain the highest possible level of air quality and the lowest possible discharge of air contaminants.

(2) The handling of aggregate and truck traffic must be conducted at all times so as to minimize emissions into the atmosphere.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-236-8010**

Process Weight Table			
<u>Process Wt/hr (lbs)</u>	<u>Maximum Weight Discharge/hr (lbs)</u>	<u>Process Wt/hr (lbs)</u>	<u>Maximum Weight Discharge/hr (lbs)</u>
50	.24	3400	5.44
100	.46	3500	5.52
150	.66	3600	5.61
200	.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
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

Process Weight Table			
<u>Process Wt/hr (lbs)</u>	<u>Maximum Weight Discharge/hr (lbs)</u>	<u>Process Wt/hr (lbs)</u>	<u>Maximum Weight Discharge/hr (lbs)</u>
2600	4.74	19000	15.58
2700	4.84	20000	16.19
2800	4.92	30000	22.22
2900	5.02	40000	28.30
3000	5.10	50000	34.30
3100	5.18	60000	40.00
3200	5.27	or	
3300	5.36	more	

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 240**

### **RULES FOR AREAS WITH UNIQUE AIR QUALITY NEEDS**

#### **340-240-0010**

##### **Purpose**

The purpose of this division is to address the air quality control needs of the Medford-Ashland AQMA and Grants Pass UGB (OAR 340-240-0100 through 340-240-0270), the La Grande UGB (340-240-0300 through 340-240-0360, the Lakeview UGB (340-240-0400 through 340-240-0440), and the Klamath Falls Nonattainment Area (340-240-0500 through 340-240-0630).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **340-240-0020 Emission Limitations**

Emission limitations established herein and stated in terms of pounds per 1,000 square feet of production are to be computed on an hourly basis using the maximum 8 hour production capacity of the plant.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### **340-240-0030 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Air conveying system" means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving airstream.

(2) "Design criteria" means the numerical as well as verbal description of the basis of design, including but not necessarily limited to design flow rates, temperatures, humidities, contaminant descriptions in terms of types and chemical species, mass emission rates, concentrations, and specification of desired results in terms of final emission rates and concentrations, and scopes of vendor supplies and owner-supplied equipment and utilities, and a description of any operational controls.

(3) "Domestic waste" means combustible household waste, other than wet garbage, such as paper, cardboard, leaves, yard clippings, wood, or similar materials generated in a dwelling housing four (4) families or less, or on the real property on which the dwelling is situated.

(4) "Fireplace" is defined in OAR 340-262-0450.

(5) "Grants Pass Urban Growth Area" and "Grants Pass Area" means the area within the Grants Pass Urban Growth Boundary as shown on the Plan and Zoning Maps for the City of Grants Pass as of 1 February 1988.

(6) "Klamath Falls Nonattainment Area" means the area as defined in OAR 340-204-0010.

(7) "La Grande Urban Growth Area" means the area within the La Grande Urban Growth Boundary as shown on the Plan and Zoning Maps for the City of La Grande as of 1 October 1991.

(8) "Lakeview Urban Growth Area" means the area within the Lakeview Urban Growth Boundary as shown on the Plan and Zoning Maps for the Town of Lakeview as of 25 October 1993.

(9) "Open burning" means burning conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in open outdoor fires, burn barrels, and backyard incinerators.

(10) "Rebuilt boiler" means a physical change after April 29, 1988, to a wood-waste boiler or its air-contaminant emission control system which is not considered a modified source and for which the fixed, depreciable capital cost of added or replacement components equals or exceeds

fifty percent of the fixed depreciable cost of a new component which has the same productive capacity.

(11) "Refuse" means unwanted material.

(12) "Refuse burning equipment" means a device designed to reduce the volume of solid, liquid, or gaseous refuse by combustion.

(13) "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 the incineration of wastes.

(14) "Wood waste boiler" means equipment which uses indirect heat transfer from the products of combustion of wood waste to provide heat or power.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0050 Compliance Testing Requirements**

(1) For demonstrating compliance with the standards in this division, testing must be done in accordance with the DEQ Source Sampling Manual.

(2) For demonstrating compliance with particulate standards, testing must be conducted using the following test methods, or alternative methods approved by DEQ:

(a) For wood waste boilers – DEQ Method 5. Results must be corrected to 12% CO<sub>2</sub>, as follows

(A)  $C(12\% \text{ CO}_2) = C \times 12\% \text{ CO}_2$

(B) As used in paragraph (A):

$C(12\% \text{ CO}_2) =$  Particulate matter emission concentration corrected to 12% CO<sub>2</sub>;

$C =$  Particulate matter emission concentration as measured by Oregon DEQ Method 5; and

$\% \text{ CO}_2 =$  Percent CO<sub>2</sub> in the exhaust gas, as measured by EPA Method 3 (or equivalent) during each particulate matter test run.

(b) For veneer dryers, wood material dryers, press and other process vents – DEQ Method 7; and

(c) For air conveying systems - DEQ Method 5 or 8.

(3) For demonstrating compliance with opacity standards, observations must be made in accordance with EPA Method 9 or continuous opacity monitoring systems certified in accordance with the DEQ Continuous Monitoring Manual.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*



## THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA AND THE GRANTS PASS URBAN GROWTH AREA

### **340-240-0100 Applicability**

OAR 340-240-0100 through 340-240-0250 apply in the Medford-Ashland Air Quality Maintenance Area (AQMA) and the Grants Pass Urban Growth Area (Area), except that OAR 340-240-0130, 340-240-0180, and 340-240-0190 apply only in the Medford-Ashland AQMA.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0110 Wood Waste Boilers**

(1) No person may cause or permit the emission of particulate matter from any boiler with a heat input capacity greater than 35 million Btu/hour unless the boiler has been equipped with emission control devices which:

(a) Limits emissions of particulate matter to LAER as defined by DEQ at the time DEQ approves the control device; and

(b) Limits visible emissions such that opacity does not exceed 5% as a six minute average, unless the permittee demonstrates by source test that emissions can be limited to LAER at higher visible emissions, but in no case may emissions equal or exceed 10% opacity as a six minute average. Specific opacity limits will be included in the permit for each affected source.

(2) For boilers existing in the baseline period with a heat input capacity greater than 35 million Btu/hour, boiler mass emission limits for the purpose of establishing the facility's netting basis under OAR 340-222-0046 will be based on particulate matter emissions of 0.030 grains per dry standard cubic foot, corrected to 12% CO<sub>2</sub>.

(3) Rebuilt Boilers are subject to OAR 340-240-0110(1). Boiler mass emissions for purposes of OAR 340-222-0041 will be based on LAER at the time DEQ approves the rebuilt boiler.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0120 Veneer Dryer Emission Limitations**

(1) No person may operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed the opacity limits specified in subsections (a) and (b) or such that emissions of particulate matter exceed the mass emission limits of subsections (b) through (f):

(a)(A) A daily average operating opacity of five percent on more than two days within any 12-month period, with the days separated from each other by at least 30 days, as measured by EPA Method 9; and

(B) A maximum opacity of 10 percent at any time as measured by EPA Method 9, unless the permittee demonstrates by source test that it can achieve the emission limits in subsections (b) through (f) at higher visible emissions than specified in subsection (a) , but in no case may emissions exceed the visible air contaminant limitations of OAR 340-234-0510(1)(b). Specific opacity limits will be included in the permit for each affected source;

(b) 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct natural gas or propane fired veneer dryers;

(c) 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for steam heated veneer dryers;

(d) 0.40 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content equal to or less than 20 percent by weight on a wet basis as measured by ASTM D4442-84;

(e) 0.45 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content greater than 20 percent by weight on a wet basis as measured by ASTM D4442-84; or

(f) In addition to subsections (d) and (e), 0.20 pounds per 1,000 pounds of steam generated in any boiler that exhausts its combustion gases to the veneer dryer.

(2) Exhaust gases from fuel burning equipment vented to the veneer dryer are exempt from OAR 340-228-0210.

(3) No person may operate a veneer dryer unless:

(a) The owner or operator has submitted a program and time schedule for installing an emission-control system which has been approved in writing by DEQ as being capable of complying with subsections (1)(a) through (f);

(b) The veneer dryer is equipped with an emission-control system which has been approved in writing by DEQ and is capable of complying with subsections (1)(a) through (f); or

(c) The owner or operator has demonstrated and DEQ has agreed in writing that the dryer is capable of being operated and is operated in continuous compliance with subsections (1)(a) through (f).

(4) Each veneer dryer must be maintained and operated at all times such that air contaminant generating processes and all contaminant control devices are at full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable levels.

(5) No person may willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule.

(6) Where effective measures are not taken to minimize fugitive emissions, DEQ may require that the equipment or structures in which processing, handling and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0130 Air Conveying Systems (Medford-Ashland AQMA Only)**

All air conveying systems emitting greater than 10 tons per year of particulate matter to the atmosphere must, with the prior written approval of DEQ, be equipped with a particulate emissions control device or devices with a design removal efficiency of at least 98.5 percent.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0140 Wood Particle Dryers at Particleboard Plants**

(1) No person may cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis of finished product equivalent.

(2) No person may cause or permit the visible emissions from the wood particle dryers at a particleboard plant to exceed 10 percent opacity as a six minute average, unless the permittee demonstrates by source test that the particulate matter emission limit in section (1) can be achieved at higher visible emissions. In no case are emissions allowed to equal or exceed 20 percent opacity as a six minute average. Specific opacity limits will be included in the permit for each affected source.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0150 Hardboard Manufacturing Plants**

(1) Emissions from hardboard plants excluding press vents. No person may cause or permit the total emissions of particulate matter from a hardboard plant, excluding press/cooling vents, to exceed 0.25 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

(2) Emissions from hardboard plants including press vents. No person is allowed to cause or permit the total emissions of particulate matter from a hardboard plant, including press/cooling vents, to exceed 0.55 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

(3) When calculating emissions for this rule, emissions from truck dump and storage areas, fuel burning equipment, and refuse burning equipment are not included.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0160 Wigwam Waste Burners**

No person owning or controlling any wigwam waste burner is allowed to cause or permit the operation of the wigwam waste burner.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0180 Control of Fugitive Emissions (Medford-Ashland AQMA Only)**

(1) All sawmills, plywood mills and veneer manufacturing plants, particleboard and hardboard plants, asphalt plants, rock crushers, animal feed manufacturers, and other major industrial facilities as identified by DEQ, must prepare and implement site-specific plans for the control of fugitive emissions.

(2) Fugitive emission-control plans must identify reasonable measures to prevent particulate matter from becoming airborne. Special care will be taken by the facility to avoid the migration of material onto the public road system. Such reasonable measures include, but are not limited to the following:

(a) The systematic paving of all unpaved roads and areas on which vehicular traffic occurs. Until an area is paved, subsection (2)(b) applies;

(b) Scheduled application of water, or other suitable chemicals on unpaved roads, log storage or sorting yards, materials stockpiles, and other surfaces which can create airborne dust. Dust suppressant material must not adversely affect water quality;

(c) Periodic sweeping or cleaning of paved roads and other areas as necessary to prevent migration of material onto the public road system;

(d) Full or partial enclosure of materials stockpiled in cases where application of water or suitable chemicals are not sufficient to prevent particulate matter from becoming airborne;

(e) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;

(f) Adequate containment during sandblasting or other similar operations;

(g) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne; and

- (h) Procedures for the prompt removal of earthen material, dirt, dust, or other material from paved streets.
- (3) Reasonable measures may include landscaping and using vegetation to reduce the migration of material onto public and private roadways.
- (4) The facility owner or operator must supervise and control fugitive emissions and material that may become airborne caused by the activity of outside contractors delivering or removing materials at the site.
- (5) The site-specific fugitive dust emissions control plan must be submitted to DEQ prior to or within 60 days of permit issuance or renewal. DEQ will approve or deny the plan within 30 days.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0190 Requirement for Operation and Maintenance Plans (Medford-Ashland AQMA Only)**

- (1) Operation and Maintenance Plans must be prepared by all holders of permits other than a Basic ACDP. All sources subject to regular permit requirements are subject to operation and maintenance requirements.
- (2) The purposes of the operation and maintenance plans are to:
  - (a) Reduce the number of upsets and breakdowns in particulate control equipment;
  - (b) Reduce the duration of upsets and downtimes; and
  - (c) Improve the efficiency of control equipment during normal operations.
- (3) The operation and maintenance plans must consider, but not be limited to, the following:
  - (a) Personnel training in operation and maintenance;
  - (b) Preventative maintenance procedures, schedule and records;
  - (c) Logging of the occurrence and duration of all upsets, breakdowns and malfunctions which result in excessive emissions;
  - (d) Routine follow-up evaluation of upsets to identify the cause of the problem and changes needed to prevent a recurrence;
  - (e) Periodic source testing of pollution control units as required by the permit;
  - (f) Inspection of internal wear points of pollution control equipment during scheduled shutdowns; and

(g) Inventory of key spare parts.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0210 Continuous Monitoring**

(1) DEQ will require the installation and operation of instrumentation for measuring and recording emissions and/or the parameters which affect the emission of air contaminants from wood-waste fired boilers, veneer dryers, fiber dryers, and particle dryers to ensure that the sources and the air pollution control devices are operated at all times at their full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable level. The instrumentation must be periodically calibrated. The method and frequency of calibration must be approved in writing by DEQ. Continuous monitoring equipment and operation must be in accordance with the DEQ Continuous Monitoring Manual. The recorded information must be kept for a period of at least one year and must be made available to DEQ upon request.

(2) At a minimum, the monitoring required under paragraph (1) must include:

(a) Continuous monitoring and monthly reporting of carbon monoxide concentration and oxygen concentration for any wood-waste fired boiler with a heat input capacity greater than 35 million BTU/hr or for any wood-waste boiler using a wet scrubber as pollution control device and steam production rate for any wood-waste fired boiler;

(b) Continuous monitoring and monthly reporting of pressure drop, scrubber water pressure, and scrubber water flow or other parameters deemed by DEQ to be equal or better indicators of proper operation of the wet scrubber used as pollution control device for any wood-waste fired boiler, veneer dryer, particle dryer, or fiber dryer; and

(c) Continuous monitoring and monthly reporting of opacity for any wood-waste fired boiler not controlled by a wet scrubber.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0220 Source Testing**

(1) The owner or operator of the following sources of particulate emissions must make or have made tests to determine the type, quantity, quality, and duration of emissions, and/or process parameters affecting emissions, using the DEQ Source Sampling Manual at the following frequencies:

(a) Wood Waste Boilers with heat input capacity greater than 35 million Btu/hour -- Once every year;

(b) Veneer Dryers -- Once every three years;

(c) Wood Particle Dryers at Hardboard and Particleboard Plants -- Once every year;

(d) Wood Waste Boilers with heat input capacity equal to or less than 35 million BTU/hour with dry emission control devices -- Once every three years.

(2) Source testing must begin at these frequencies within 90 days of the date by which compliance is to be achieved for each individual emission source.

(3) These source testing requirements will remain in effect unless waived in writing by DEQ because of adequate demonstration that the source is consistently operating at lowest practicable levels, or that continuous emission monitoring systems are producing equivalent information.

(4) Source tests on wood waste boilers must not be performed during periods of soot blowing, grate cleaning, or other abnormal operating conditions. The maximum steaming rate for the boiler may not exceed the average steam production rate measured during the source test by more than ten percent (10%).

(5) Source tests must be performed within 90 days of the startup of air pollution control systems.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0250 Open Burning**

Open burning of domestic waste is prohibited on any day or at any time when DEQ advises fire permit issuing agencies that open burning is not allowed because of adverse meteorological or air quality conditions.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **LA GRANDE URBAN GROWTH AREA**

### **340-240-0300 Applicability**

OAR 340-240-0300 through 340-240-0360 apply in the La Grande Urban Growth Area.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0320 Wood-Waste Boilers**

No person may cause or permit the emission into the atmosphere from any wood-waste boiler that is located on a plant site where the total heat input capacity from all wood-waste boilers is greater than 35 million Btu/hr:

(1) Any air contaminant which is equal to or greater than 10 percent opacity as a six minute average, unless the permittee demonstrates by source test that the source can comply with the emission limit in section (2) at higher opacity but in no case may emissions equal or exceed 20 percent opacity as a six minute average. Specific opacity limits will be included in the permit for each affected source.

(2) Particulate matter in excess of 0.05 grains per standard cubic foot, corrected to 12 percent CO<sub>2</sub>.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0330 Wood Particle Dryers at Particleboard Plants**

(1) No person may cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis of finished product equivalent.

(2) No person may cause or permit the visible emissions from the wood particle dryers at a particleboard plant to exceed 10 percent opacity as a six minute average, unless the permittee demonstrates by source test that the particulate matter emission limit in section (1) can be achieved at higher visible emissions, but in no case may emissions equal or exceed 20 percent opacity as a six minute average. Specific opacity limits will be included in the permit for each affected source.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0340 Hardboard Manufacturing Plants**

No person may cause or permit the total emissions of particulate matter from all sources within a hardboard plant, other than press/cooling vents, in excess of 0.25 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0350 Air Conveying Systems**

(1) No person is allowed to cause or permit the emission of particulate matter in excess of 0.10 grains per standard cubic foot from any air conveying system emitting less than or equal to ten tons of particulate matter to the atmosphere during any 12-month period beginning on or after January 1, 1990 except as allowed by section (2).

(2) The owner or operator of an existing source who is unable to comply with OAR 340-226-0210(1)(a)(B) or (b)(C) may request that DEQ grant an extension allowing the source up to one year to comply with the standard, and DEQ may grant such extension if it determines that such period is necessary for the installation of controls.

(3) All air conveying systems emitting greater than 10 tons of particulate matter to the atmosphere during any 12-month period beginning on or after January 1, 1990 must be equipped with a particulate emissions control device or devices with a rated control efficiency of at least 98.5 percent .



(4) No person may cause or permit the emission of any air contaminant which is equal to or greater than five percent opacity as a six minute average from any air conveying system subject to section (3).

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0360 Fugitive Emissions**

The owner or operator of any sawmill, plywood mill or veneer manufacturing plant, particleboard plant, or hardboard plant that is located in the La Grande Urban Growth Area must comply with OAR 340-240-0180.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **THE LAKEVIEW URBAN GROWTH AREA**

### **340-240-0400 Applicability**

OAR 340-240-0400 through 340-240-0440 apply to the Lakeview Urban Growth Area.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0410 Control of Fugitive Emissions**

(1) All sawmills, plywood mills and veneer manufacturing plants, particleboard and hardboard plants, asphalt plants, stationary rock crushers, and sources subject to OAR 340-240-0420 must prepare and implement site-specific plans for the control of fugitive emissions.

(2) Fugitive emission control plans must identify reasonable measures to prevent particulate matter from becoming airborne. Such reasonable measures must include, but not be limited to, the following:

(a) Scheduled application of water or other suitable chemicals on unpaved roads, log storage or sorting yards, materials stockpiles, and other surfaces which can create airborne dust;

(b) Full or partial enclosure of materials stockpiled in cases where application of water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;

(c) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;

(d) Adequate containment during sandblasting or other similar operations;

(e) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne; and

(f) Procedures for the prompt removal from paved streets of earthen material, dirt, dust, or other material which does or may become airborne.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0420 Requirement for Operation and Maintenance Plans**

(1) With the exception of basic and general permit holders, a permit holder must prepare and implement operation and maintenance plans for non-fugitive sources of particulate matter.

(2) The purposes of the operation and maintenance plans are to:

(a) Reduce the number of upsets and breakdowns in particulate control devices;

(b) Reduce the duration of upsets and downtimes; and

(c) Improve the efficiency of control devices during normal operations.

(3) The operation and maintenance plans must consider, but not be limited to, the following:

(a) Personnel training in operation and maintenance;

(b) Preventative maintenance procedures, schedule and records;

(c) Logging of the occurrence and duration of all upsets, breakdowns and malfunctions which result in excessive emissions;

(d) Routine follow-up evaluation of upsets to identify the cause of the problem and changes needed to prevent a recurrence;

(e) Periodic source testing of pollution control units as required by a permit;

(f) Inspection of internal wear points of pollution control devices during scheduled shutdowns; and

(g) Inventory of key spare parts.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0430 Source Testing**

The owner or operator of the following sources of particulate emissions must make or have made tests to determine the type, quantity, quality, and duration of emissions, and/or process parameters affecting emissions, using the DEQ Source Sampling Manual at the following frequency: wood waste boilers with total heat input capacity equal to or greater than 35 million Btu/hour -- Once every three years.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0440 Open Burning**

No open burning of domestic waste is allowed to be initiated on any day or at any time when the local air stagnation advisory forecasts adverse meteorological or air quality conditions.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **KLAMATH FALLS NONATTAINMENT AREA**

### **340-240-0500 Applicability**

OAR 340-240-0500 through 340-240-0630 apply in the Klamath Falls Nonattainment Area beginning January 1, 2013.

*State effective: 12/11/2012; EPA approval: 8/25/2015, 80 FR 51470; EPA effective: 9/24/2015*

### **340-240-0510 Opacity Standard**

(1) Except as provided in section (2), no person conducting a commercial or industrial activity may cause or permit the emission of any air contaminant into the atmosphere from any stationary source including fuel or refuse burning equipment, that exhibits equal to or greater than 20% opacity as a six minute average.

(2) Exceptions to section (1) include the following:

(a) This rule does not apply to fugitive emissions.

b) For wood-fired boilers that were constructed or installed prior to June 1, 1970 and not modified since that time, visible emissions during grate cleaning operations must not equal or exceed 40% opacity as a six minute average except that:

(A) Beginning June 30, 2013, this exception will only apply if the owner or operator conducts the grate cleaning in accordance with a grate cleaning plan that has been approved by DEQ; and

(B) The owner or operator must prepare a grate cleaning plan in consultation with DEQ and submit the plan to DEQ by June 1, 2013.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0520 Control of Fugitive Emissions**

(1) All sawmills, plywood mills and veneer manufacturing plants, particleboard and hardboard plants, asphalt plants, rock crushers, animal feed manufacturers, and other major industrial facilities as identified by the DEQ, must prepare and implement site-specific plans for the control of fugitive emissions. The plan must be submitted to the DEQ for approval in accordance with paragraph (5) below.

(2) Fugitive emission-control plans must identify reasonable measures to prevent particulate matter from becoming airborne, and avoid the migration of material onto the public road system. Such reasonable measures may include, but are not limited to the following:

- (a) Paving all roads and areas on which vehicular traffic occurs at the facility;
- (b) Scheduled application of water, or other suitable chemicals on unpaved roads, log storage or sorting yards, materials stockpiles, and other surfaces which can create airborne dust. Dust suppressant material must not adversely affect water quality;
- (c) Periodic sweeping or cleaning of paved roads and other areas as necessary to prevent migration of material onto the public road system;
- (d) Full or partial enclosure of materials stockpiled or other best management practices in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;
- (e) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;
- (f) Adequate containment during sandblasting or other similar operations;
- (g) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne; and
- (h) Procedures for the prompt removal of earth or other material from paved streets.

(3) Reasonable measures may include landscaping and using vegetation to reduce the migration of material onto public and private roadways or from becoming airborne.

(4) The facility owner or operator must supervise and control fugitive emissions and material that may become airborne caused by the activity of outside contractors delivering or removing materials at the site.

(5) For existing sources, the site-specific fugitive emissions control plan must be submitted to the DEQ by July 1, 2013. For sources that obtain their initial permit after December 14, 2012, the site-specific fugitive emission control plan must be submitted within 60 days after permit issuance. For portable sources that move into the nonattainment area after December 14, 2012, the site-specific fugitive emission control plan must be submitted with the relocation

notification. Unless otherwise notified by the DEQ, the fugitive emission control plan will be approved by default within 30 days after the plan is submitted to the DEQ. The DEQ may request revisions to the plan at any time if fugitive emissions are not adequately controlled as demonstrated by visible emissions.

*State effective: 12/11/2012; EPA approval: 8/25/2015, 80 FR 51470; EPA effective: 9/24/2015*

### **340-240-0530 Requirement for Operation and Maintenance Plans**

(1) With the exception of basic and general permit holders, a permit holder must prepare and implement Operation and Maintenance Plans for non-fugitive sources of particulate matter.

(2) The purposes of the operation and maintenance plans are to:

- (a) Reduce the number of upsets and breakdowns in particulate control equipment;
- (b) Reduce the duration of upsets and downtimes; and
- (c) Improve the efficiency of control equipment during normal operations.

(3) The operation and maintenance plans should consider, but not be limited to, the following:

- (a) Personnel training in operation and maintenance;
- (b) Preventative maintenance procedures, schedule and records;
- (c) Logging of the occurrence and duration of all upsets, breakdowns and malfunctions which result in excessive emissions;
- (d) Routine follow-up evaluation of upsets to identify the cause of the problem and changes needed to prevent a recurrence;
- (e) Periodic source testing of pollution control units as required by the permit;
- (f) Inspection of internal wear points of pollution control equipment during scheduled shutdowns; and
- (g) Inventory of key spare parts.

(4) Existing sources must submit an Operation and Maintenance Plan to the DEQ by July 1, 2013. Sources obtaining an initial permit after December 14, 2012 must submit the Operation

and Maintenance Plan within 60 days of permit issuance. The DEQ will notify sources within 30 days of plan submittal only if the Operation and Maintenance Plan is not approved. The DEQ may request revisions to the plan at any time if plans are not sufficient.

*State effective: 12/11/2012; EPA approval: 8/25/2015, 80 FR 51470; EPA effective: 9/24/2015*

### **340-240-0540 Compliance Schedule for Existing Industrial Sources**

(1) Except as provided in sections (2) and (3) of this rule, compliance with applicable requirements of OAR 340-240-0500 through 340-240-0540 for a source that is built and located in the Klamath Falls Nonattainment Area prior to December 14, 2012 must be demonstrated by the owner or operator of the source as expeditiously as possible, but in no case later than the following schedule:

(a) No later than June 15, 2013, the owner or operator must submit Design Criteria and a Notice of Intent to Construct for emission-control systems for complying with OAR 340-240-0510 through 340-240-0540 for DEQ review and approval; If the DEQ disapproves the Design Criteria, the owner or operator must revise the Design Criteria to meet the DEQ's objections and submit the revised Design Criteria to the DEQ no later than one month after receiving the DEQ's disapproval;

(b) No later than three months after receiving the DEQ's approval of the Design Criteria, the owner or operator must submit to the DEQ copies of purchase orders for any emission-control devices;

(c) No later than eight months after receiving the DEQ's approval of the Design Criteria, the owner or operator must submit to the DEQ vendor drawings as approved for construction of any emission-control devices and specifications of any other major equipment in the emission-control system in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

(d) No later than nine months after receiving the DEQ's approval of the Design Criteria, the owner or operator must begin construction of any emission-control devices;

(e) No later than fourteen months after receiving the DEQ's approval of Design Criteria, the owner or operator must complete construction in accordance with the Design Criteria;

(f) No later than October 15, 2014, the owner or operator must demonstrate compliance with the applicable requirements identified in OAR 340-240-0500 through 0540. Compliance with 340-240-0510 must be demonstrated by conducting a source test. Compliance with 340-240-0520 and 0530 must be demonstrated by implementing the approved plans.

(2) Section (1) of this rule does not apply if the owner or operator of the source has demonstrated by September 15, 2014 that the source is capable of being operated and is operated in continuous compliance with applicable requirements of OAR 340-240-0500 through 340-240-0540 and the DEQ has agreed with the demonstration in writing. The DEQ may grant an extension until April 15, 2015 for a source to demonstrate compliance under this section. The applicable requirements will be incorporated in the Permit issued to the source.

(3) The DEQ may adjust the schedule specified in subsections (1)(a) through (e) of this rule if necessary to ensure timely compliance with subsection (1)(f) of this rule or if necessary to conform to an existing compliance schedule with an earlier compliance demonstration date.

*State effective: 12/11/2012; EPA approval: 8/25/2015, 80 FR 51470; EPA effective: 9/24/2015*

### **340-240-0550 Requirements for New Sources When Using Residential Wood Fuel-Fired Device Offsets**

(1) All new or modified sources subject to OAR 340 division 224 may opt to use wood fuel-fired device emission reductions to satisfy offset requirements;

(2) Offsets for decommissioning fireplaces and non-certified woodstoves (including fireplace inserts) must be obtained at the ratio specified in OAR 340-224-0530, as applicable. One ton of emission reductions from fireplaces and non-certified wood stoves offsets one ton of emissions from a proposed new or modified industrial point source proposed to be located inside or impacting the non-attainment area or maintenance area;

(3) Offsets must be obtained from within the Klamath Falls Nonattainment Area and Maintenance Area; and

(4) The emission reductions offsets must be approved by DEQ and comply with OAR 340-240-0560.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **REAL AND PERMANENT PM<sub>2.5</sub> and PM<sub>10</sub> OFFSETS**

#### **340-240-0560 Real and Permanent PM<sub>2.5</sub> and PM<sub>10</sub> Offsets**

(1) For Klamath Falls and other designated areas when allowed under OAR 340-204-0320, annual emissions reductions offsets for PM<sub>2.5</sub> and PM<sub>10</sub> are determined as follows:

(a) For fireplaces, the emission reductions offsets for decommissioning the fireplace and replacing it with a:

(A) Certified fireplace insert is 0.02 tons for each replaced device;

- (B) Pellet stove insert is 0.03 tons for each replaced device; or
  - (C) Alternative non-wood burning heating system is 0.04 tons for each replaced device.
- (b) For non-certified fireplace inserts, the emission reduction for replacing the heating device with a:
- (A) Certified fireplace insert is 0.02 tons for each replaced device;
  - (B) Pellet stove is 0.04 tons for each replaced device; or
  - (C) Alternative non-wood burning heating system is 0.04 tons for each replaced device.
- (c) For conventional (non-certified) woodstoves, the emission reduction for replacing the heating device with a:
- (A) Certified woodstove (including both catalytic and non-catalytic designs) or certified fireplace insert is 0.03 tons for each replaced device; or
  - (B) Pellet stove is 0.05 tons for each replaced device; or
  - (C) Alternative non-wood burning heating system is 0.06 tons for each replaced device.
- (d) For certified woodstoves (including both catalytic and non-catalytic designs), the emission reduction for replacing the heating device with a:
- (A) Pellet stove is 0.03 tons for each replaced device; or
  - (B) Alternative non-wood burning heating system is 0.04 tons for each replaced device
- (2) For the emission reductions identified in section (1) to be considered permanent, the person responsible for taking credit for the emission reductions must obtain and maintain the following records for at least 5 years from the date that the proposed industrial point source commences operation:
- (a) The address of the residence where the emission reduction occurred;
  - (b) The date that the emission reduction was achieved;
  - (c) Purchase and installation records for certified woodstoves, certified inserts, or alternative non-wood burning heating systems;
  - (d) Records for permanently decommissioning fireplaces, if applicable; and
  - (e) Disposal records for non-certified woodstoves or fireplace inserts removed.



(3) The records identified in section (2) may be provided by a third party authorized and monitored by the DEQ to procure the emission reductions identified in section (1).

(4) All emission reductions must be achieved prior to startup of the proposed source using the emission reductions as offsets in the permitting action specified in OAR 340 division 224.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **KLAMATH FALLS NONATTAINMENT AREA CONTINGENCY MEASURES**

### **340-240-0570 Applicability**

OAR 340-240-0570 through 340-240-0630 apply to the Klamath Falls Nonattainment Area for PM<sub>2.5</sub> should the area not achieve attainment by the applicable attainment date established pursuant to 42 U.S.C. 7502(a)(2).

*State effective: 12/11/2012; EPA approval: 6/6/2016, 81 FR 36176; EPA effective: 7/6/2016*

### **340-240-0580 Existing Industrial Sources Control Efficiency**

The owner or operator of an Oregon Title V Operating Permit program source, as defined in OAR 340-200-0020 may not remove or modify existing control devices unless the new control device has the same or better PM<sub>2.5</sub> control efficiency as the old device.

*State effective: 12/11/2012; EPA approval: 6/6/2016, 81 FR 36178; EPA effective: 7/6/2016*

### **340-240-0610 Continuous Monitoring for Industrial Sources**

(1) The owner or operator of an Oregon Title V Operating Permit program source, as defined in OAR 340-200-0020, must install and operate instrumentation for measuring and recording emissions or the parameters that affect the emission of particulate matter from wood-fired boilers by June 1, 2015, to ensure that the sources and the air pollution control devices are operated at all times at their full efficiency and effectiveness so that the emission of particulate matter is kept at the lowest practicable level. Continuous monitoring equipment and operation must be in accordance with the DEQ Continuous Monitoring Manual.

(2) At a minimum, the monitoring required under paragraph (1) must include:

(a) Continuous monitoring of control device parameters for any wood-fired boiler.

(b) Continuous monitoring of opacity for any wood-fired boiler not controlled by a wet scrubber.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-240-0620 Contingency Measures: New Industrial Sources**

New industrial sources must comply with OAR 340-240-0570 through 340-240-0610 immediately upon receiving an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.

*State effective: 12/11/2012; EPA approval: 6/6/2016, 81 FR 36178; EPA effective: 7/6/2016*

### **340-240-0630 Contingency Enhanced Curtailment of Use of Solid Fuel Burning Devices and Fireplaces**

(1) Beginning on November 1 of each year and continuing through and including February 28 of the following year, no fireplace, as defined by OAR 340-262-0450, may emit more than 5.1 grams per kilogram of particulate emissions. A fireplace shall be deemed in compliance with this emission standard if it has been certified either in accordance with ASTM international standard test method E2558 or by the DEQ pursuant to OAR 340- 262-0500. A fireplace that is not certified as described in this rule shall be presumed not to comply with this rule.

(2) The DEQ may approve exemptions from compliance with section (1) of this rule on days when the DEQ or the Klamath County Health Department has issued a local Klamath Falls Advisory Call indicating that it is a good ventilation day (a “green day”) that are also state holidays or days that the county has designated as a “special occasion day”. Any person who wishes to receive such an exemption must file an exemption application with the DEQ and the DEQ must have approved the exemption request prior to the green day.

*State effective: 12/11/2012; EPA approval: 6/6/2016, 81 FR 36178; EPA effective: 7/6/2016*

## **DIVISION 242**

### **RULES APPLICABLE TO THE PORTLAND AREA**

#### **EMPLOYEE COMMUTE OPTIONS PROGRAM**

#### **340-242-0010 What is the Employee Commute Options Program?**

(1) The Employee Commute Options or "ECO" Program requires larger employers to provide commute options to encourage employees to reduce auto trips to the work site.

(2) ECO is one of several strategies included in the Ozone Maintenance Plan for the Portland Air Quality Maintenance Area. The Ozone Maintenance Plan will keep the area in compliance with the federal ozone standard.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0020 Who is Subject to ECO?**

ECO applies to employers within the Portland Air Quality Maintenance Area (AQMA) with more than 100 employees at a work site. The Portland Air Quality Maintenance Area is defined in Oregon Administrative Rules (OAR) 340-204-0010 and is illustrated in **Figure 1**.

**NOTE:** The term "employer," and several other terms, are used throughout these rules as defined in Definitions of Terms, OAR 340-242-0050.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0030 What Does ECO Require?**

Employers must provide commute options that have the potential to reduce employee commute auto trips by ten percent within three years of its baseline survey. Employers must continue to provide commute options that have the potential to achieve and maintain the reduced auto trip rate. Options are available for alternative emission reduction measures, credits for past actions, and exemptions.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0040 How Does the Department Enforce ECO?**

Enforcement procedures and civil penalties in OAR, chapter 340, division 12 apply. Under OAR 340012-0053(2) and 340-012-0054(2)(g), violations of the ECO rules are Class Two violations. Failure to achieve a ten percent trip reduction is not a violation; failure to make a good faith effort toward, or prepare and implement a plan designed to achieve, a ten percent trip reduction is a violation. Civil penalties are determined under OAR 340-012-0045

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0050 Definitions of Terms Used in These Rules**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to OAR 340-242-0010 through 340-242-0290. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to OAR 340-242-0010 through 340-242-0290.

- (1) "AQMA" means the Portland Air Quality Maintenance Area.
- (2) "Auto Trip" means a commute trip taken by vehicle to a work site.
- (3) "Auto Trip Rate" means the number of commute vehicles arriving at a work site divided by the number of employees that report to the work site.
- (4) "Baseline Auto Trip Rate" means the daily average auto trip rate established by the baseline

survey.

(5) "Baseline Survey" means the employee survey administered at the beginning of the ECO program, or when a new or expanding employer becomes subject to the ECO rules, or when an employer relocates.

(6) "Car/Vanpool" means a motor vehicle occupied by two or more people traveling together for their commute trip that results in the reduction of a minimum of one auto trip.

(7) "Compressed Work Week" means a schedule in which employees work their regularly-scheduled number of hours in fewer days per week or over a number of weeks (for example, a 40-hour, 8 hours per day, Monday through Friday work week is compressed into a 40-hour, 10 hours a day, Monday through Thursday work week.).

(8) "Department" means the Oregon Department of Environmental Quality.

(9) "ECO Program" or "ECO Rules" means OAR 340-242-0010 through 340-242-0290.

(10) "Employee" means any person on the employer's payroll, full or part-time (part time is 80 or more hours per 28-day period), for at least six consecutive months at the same work site, including business owners, associates, partners, and partners classified as professional corporations.

(11) "Employer" means. any person, business, educational institution, non-profit agency or corporation, government department or agency or other entity that employs more than 100 employees at a single work site.

(12) "Equivalent Emission Reduction" means a reduction of vehicle emissions, or other sources of volatile organic compounds (VOC) and nitrogen oxides (NOx) emissions, that results in a reduction of VOC and NOx emissions equal to the emission reduction resulting from one eliminated auto trip.

(13) "Metro" means the regional government agency that serves the Portland metropolitan area.

(14) "New Employer" means any employer establishing a work site within the Portland AQMA, or any employer within the Portland AQMA that expands employment at a single work site to more than 100 employees, after the effective date of the ECO rules.

(15) "Non-Scheduled Work Week" means a work week with no regular daily scheduled starting or ending time, no scheduled work days, or employees are on-call. This does not include

employees working a traditional "8 to 5" job who may work on a flexible schedule.

(16) "Target Auto Trip Rate" means a rate ten percent less than the baseline auto trip rate.

(17) "Target Compliance Deadline" means the date by which employers must demonstrate progress toward achieving and maintaining their target auto trip rate. The initial target compliance deadline is three years following registration.

(18) "Telecommuting" means the employees perform regular work duties at home, or at a work center closer to home than to work, rather than commuting to work. The employees may telecommute full time, or commute to work on some days and telecommute on others.

(19) "Vehicle" or "Auto" means a highway vehicle powered by a gasoline or diesel internal combustion engine with fewer than sixteen adult passenger seating positions.

(20) "Work site" means a property that is owned or leased by an employer or employers under common control, including a temporary or permanent building, or grouping of buildings that are in actual physical contact or separated only by a private or public roadway or other right-of-way.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0060 Should All Employees at a Work Site be Counted?**

The count of employees at a work site must include:

(1) Employees from all shifts, Monday through Friday, during a 24-hour period, averaged over a 12-month period;

(2) Employees on the employer's payroll for at least six consecutive months at one work site; and

(3) Part-time employees assigned to a work site 80 or more hours per 28-day-period; but

(4) Excludes volunteers, disabled employees (as defined under the Americans with Disabilities Act), employees working on a **non-scheduled work week**, and employees required to use a personal **vehicle** as a condition of employment.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0070 What are the Major Requirements of ECO?**

To comply with ECO, employers must:

(1) Conduct a baseline survey of employees to establish a baseline auto trip rate (or provide

documentation of the current auto trip rate that is at least as accurate as a survey would provide);

(2) Calculate a target auto trip rate by reducing the baseline auto trip rate by 10 percent;

(3) Submit a registration form as supplied by the Department;

(4) Design and implement a trip reduction strategy that has the potential to achieve the target auto trip rate by the target compliance deadline and the potential to maintain the target auto trip rate;

(5) Either:

(a) Prepare and implement an auto trip reduction plan for each work site and submit the plan to the Department for approval; or

NOTE: Enforcement will be based upon implementing the approved plan, see OAR 340-242-0110

(b) Provide written notice to the Department of participation in an equivalent commute trip reduction program.

NOTE: Enforcement will be based on good faith effort, see OAR 340-242-0180 and special requirements in OAR 340-242-0110.

(6) Survey employees every two years, report survey findings to the Department; and

(7) Continue to implement strategies to achieve or maintain the target auto trip rate.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0080 What are the Registration Requirements?**

(1) Employers must submit a registration form to the Department on forms provided by the Department.

(2) Employers with multiple work sites may submit one application for all work sites.

(3) Baseline survey findings must be submitted with the registration form in the format described on the registration form.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0090 What are the Requirements for an Employee Survey?**

- (1) Employers may use the survey form provided by the Department or an alternate instrument. Any alternate survey instrument must be approved by the Department before use and must provide an opportunity for employees to indicate an interest in a **carpool** matching program;
- (2) The employer must distribute the survey form to all employees and achieve a minimum response rate of 75 percent; If the employer cannot achieve the minimum response rate for follow-up surveys within a reasonable amount of time, the Department will assign a single occupant vehicle mode to the percentage of employees who did not respond up to the 75% rate;
- (3) Employers with more than 400 employees at a work site may survey a statistically valid random sample of employees and must follow the Department's guidelines for random sampling;
- (4) Survey forms must be distributed during the week following a typical work week for the employer and not bordering a holiday;
- (5) The baseline survey must not be distributed to employees earlier than one year before reporting the results to the Department (older baseline surveys can be used to apply for credit, see OAR 340-2420250);
- (6) Follow-up surveys must not be distributed to employees earlier than 90 days before reporting the results to the Department;
- (7) Employers must report survey findings to the Department every two years, and;
- (8) An alternative method may be substituted for the survey. Alternative methods must be at least as accurate as survey findings and must be approved by the Department (such methods might include counting cars in an employee parking lot or conducting work site entrance verbal surveys).

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0100 Special Requirements for Employers Intending to Comply Without an Approved Plan**

- (1) Employers who choose to achieve the target auto trip rate without an approved plan must survey employees 18 months after the baseline survey was conducted;
- (2) Findings from the 18-month survey must be submitted to the Department according to the schedule in **Table 1**;
- (3) If an 18-month survey shows that the employer's progress toward the target auto trip rate is

less than one-third of the target trip reduction, the employer must submit an auto trip reduction plan to the Department for approval within 60 days of submitting survey findings to the Department; and

(4) Following the 18-month survey, employers must survey annually according to the schedule in **Table 1**.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0110 What if an Employer Does Not Meet the Target Auto Trip Rate?**

(1) An employer with an approved plan who has fully implemented its plan yet has not achieved its target auto trip rate by the target compliance date, or does not maintain its target rate on biennial basis, must submit a revised plan within 60 days following the target compliance date in any given year. If an employer has not fully implemented its plan, the employer is subject to an enforcement action by the Department.

(2) An employer participating in an equivalent commute trip reduction program who does not achieve its target auto trip rate by the target compliance date must demonstrate that a good faith effort was made to achieve the target rate. Requirements for documenting good faith effort are described in 340-2420180. The employer must also submit a trip reduction plan within 60 days following the target compliance date. If an employer cannot demonstrate that a good faith effort was made, the employer is subject to an enforcement action by the Department.

(3) An employer will not be required to submit further plan revisions to its initial plan if, after fully implementing two revisions, the target auto trip rate is not reached. The employer must maintain strategies identified in its plan, or revisions to that plan, that resulted in improvements to the auto trip rate.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0120 How Will Employers Demonstrate Progress Toward the Target Auto Trip Rate?**

Employers must submit employee survey findings, including a calculated auto trip rate, to the Department. The Department will compare the reported auto trip rate with the employer's target auto trip rate.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0130 What is the Schedule Employers Must Follow to Implement ECO?**

The schedule employers must follow to implement the ECO program is detailed in **Table 1**. Implementation is staggered and employer grouping is based on work site zip code. The



Department will place any work site located in a zip code not listed in this rule in a group with the most closely associated zip code. An employer with multiple work sites in more than one zip code may follow one schedule for all work sites with approval from the Department.

**Table 1**  
**IMPLEMENTATION SCHEDULE**

**Registration Forms Due**

Group 1 — 11-1-96  
Group 2 — 2-1-97  
Group 3 — 5-1-97  
Group 4 — 8-1-97

**Baseline Surveys Due**

Group 1 — 11-1-96  
Group 2 — 2-1-97  
Group 3 — 5-1-97  
Group 4 — 8-1-97

**Plans - Notices of Intent To Comply w/o a Plan Due**

Group 1 — 2-1-97  
Group 2 — 5-1-97  
Group 3 — 8-1-97  
Group 4 — 11-1-97

**12-Month Surveys Due for Those with a Plan**

Group 1 — 11-1-97  
Group 2 — 2-1-97  
Group 3 — 5-1-98  
Group 4 — 8-1-98

**18-Month Surveys Due for Those without a Plan**

Group 1 — 5-1-98  
Group 2 — 8-1-98  
Group 3 — 11-1-98  
Group 4 — 2-1-98

**Surveys Due for Those with a Plan**

Group 1 — 11-1-98

Group 2 — 2-1-99

Group 3 — 5-1-99

Group 4 — 8-1-99

### **Initial Target Compliance Date Surveys Due for all Employers**

Group 1 — 11-1-99

Group 2 — 2-1-00

Group 3 — 5-1-00

Group 4 — 8-1-00

### **Annual Target Compliance Date Surveys Due for all Employers**

Group 1 — every 11-1 thru 2006

Group 2 — every 2-1 thru 2006

Group 3 — every 5-1 thru 2006

Group 4 — every 8-1 thru 2006

**Group 1** includes: Northeast zip codes: 97024, 97060, 97203, 97211, 97212, 97213, 97217, 97218, 97220, 97227, 97230, 97232;

**Group 2** includes: Southeast zip codes: 97004, 97009, 97015, 97027, 97030, 97045, 97080, 97202, 97206, 97214, 97215, 97216, 97222, 97233, 97236, 97266, 97267;

**Group 3** includes: Southwest zip codes: 97005, 97006, 97007, 97008, 97034, 97035, 97036, 97062, 97068, 97070, 97106, 97113, 97119, 97132, 97140, 97219, 97223, 97224;

**Group 4** includes: Northwest zip codes: 97116, 97123, 97124, 97133, 97201, 97204, 97205, 97207, 97208, 97209, 97210, 97221, 97225, 97229, 97231, 97258.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0140 How Should Employers Account for Changes in Work Force Size?**

The target auto trip rate remains constant regardless of changes in work force size. Employers experiencing an annual increase or decrease in the number of employees reporting to a work site must simply maintain the target auto trip rate.

**NOTE:** For example, an employer has 200 employees and 180 autos arriving at the work site. The employer's baseline auto trip rate is 180 autos/200 employees, or .90. The target auto trip rate is .90 minus 10 percent, or .81. The employer's work force increases to 300 employees. The target auto trip rate remains .81. In order to maintain the target auto trip rate, auto trips to the work site cannot exceed  $(300 \times .81)$ , or 243 trips. Similarly, if the employer's work force decreases to 100 employees, the target auto trip rate remains .81, and auto trips to the work site cannot exceed  $(100 \times .81)$  or 81 trips.

### **340-242-0150 How Can an Employer Reduce Auto Commute Trips to a Work Site?**

Employee commute option programs include, but are not limited to:

- (1) Promoting carpool and vanpool programs;
- (2) Offering transit subsidies;
- (3) Establishing **telecommuting** opportunities;
- (4) Offering **compressed work week** schedules;
- (5) Providing an emergency ride home program;
- (6) Sponsoring shuttle buses to and from transit terminals and/or during lunch hours for errands;
- (7) Improving facilities to promote bicycle use;
- (8) Establishing on-site amenities to decrease employees' need for a car at the work site;
- (9) Discontinuing parking subsidies and charging all employees for parking.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0160 What Should be Included in an Auto Trip Reduction Plan?**

An auto trip reduction plan must include:

- (1) The results of the baseline survey (or comparable documentation);
- (2) Calculation of baseline and target auto trip rates;
- (3) Any employee commute option programs currently in use at the work site;
- (4) New commute options to be implemented at the work site that have the potential to achieve and maintain the target auto trip rate;
- (5) Empirical evidence that the commute option(s) to be offered or supported by the employer have the potential to achieve and maintain the target auto trip rate (employers may reference the Department's report Alternatives to Single Occupant Vehicle Trips or provide equivalent documentation);

- (6) Any unique aspects of the business or work site influencing the trip reduction strategies selected;
- (7) A schedule for implementing each of the selected commute option measures;
- (8) Any alternative emission reduction proposals prepared by the employer according to OAR 340-242-0240;
- (9) The name, title, telephone number, and business mailing address of the person designated by the employer as the contact for the work site (contact person does not have to be located at the work site); and a signed statement certifying that the documents and information submitted in the plan are true and correct to the best of that person's knowledge.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0170 When Will the Department Act on a Submitted Auto Trip Reduction Plan?**

The Department will approve or notify the employer of deficiencies in a submitted auto trip reduction plan, based on the criteria in OAR 340-242-0160, within 90 days or the plan will be automatically approved. The employer will have 30 days to correct the deficiencies and resubmit the plan to the Department. Plan approvals will be documented by letter from the Department to the employer. Employers must submit any subsequent plan modifications to the Department for review and approval. If the employer objects to any condition or limitation in the Department's letter, the employer may request a contested case hearing before the Commission or its authorized representative. Such a request for hearing must be made in writing to the Director and received by the Department within 20 days of the date of mailing of the letter. Any subsequent hearing will be conducted pursuant to the provisions of ORS Chapter 183 and OAR Chapter 340, Division 11.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0180 What is a Good Faith Effort?**

Employers who participate in an equivalent commute trip reduction program and then fail to meet their target auto trip rates must demonstrate that a good faith effort was made to meet the target trip reduction. An employer must demonstrate good faith effort by submitting written documentation of the following:

- (1) Employer established a baseline auto trip rate and corresponding target auto trip rate and conducted follow-up surveys to determine employee commute patterns and progress toward achieving the target trip reduction;
- (2) Employer selected trip reduction strategies that had a reasonable likelihood of success based on documentation in the Department's report Alternatives to Single Occupant Vehicle Trips or

equivalent documentation (for example, auto trip reduction experience by employers in a comparable region); and

(3) Employer fully implemented all selected strategies, or their equivalent, on a schedule that would have reasonably allowed the employer to achieve the target auto trip rate by the target compliance deadline.

*State effective: 4/12/2007; 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0190 How Does the ECO Program Affect New Employers, Expanding Employers and Employers Relocating Within the Portland AQMA?**

(1) An expanding employer who increases the number of employees at any single work site within the Portland AQMA to more than 100 after the effective date of the ECO rules must comply with the ECO rules. An employer relocating a work site within the Portland AQMA is considered a new employer upon relocation and must set a new baseline and target auto trip rate and comply with the ECO rules. Relocating employers may apply for credit for existing trip reductions that carry over to the new work site. Expanding employers and new employers must meet the requirements of this rule within the following number of days after they become affected employers:

- (a) Survey employees and submit survey findings and a registration form within 90 days;
- (b) Select strategies that have the potential to meet the target trip reduction and submit a trip reduction plan or notice of intent to reduce trips without an approved plan within 180 days; and
- (c) Conduct follow-up surveys every two years and report findings to the Department within 90 days of surveying.

(2) An employer affected by this rule may choose to demonstrate compliance through 340-242-0260(5) (*use of area average rate*).

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0200 Can a New or Relocating Employer Comply with ECO Through Restricted Parking Ratios?**

An employer locating at a work site within the AQMA after the effective date of the ECO rules will be exempt from the ECO rules for that work site if:

- (1) The new work site meets the requirements of the Department's Voluntary Parking Ratio rules (OAR 340-242-0300 through 340-242-0390); or
- (2) If the employer provides free or subsidized parking, including leased parking, above the

Department's maximum parking ratio to any employees at the work site (except to employees required to have a vehicle at the work site as a condition of employment), then either:

(a) A transportation allowance is offered to those employees provided free or subsidized parking that exceeds the Department's maximum parking ratio. The transportation allowance must be offered in lieu of the free or subsidized parking in an amount equal to or greater than the amount of the subsidy, but not to exceed the maximum allowed for transit by the Internal Revenue Service for the Qualified Transportation Fringe Benefits included under Section 132(F), Notice 94-3 of the tax code; or

(b) All employees at the work site are offered a transit subsidy or its equivalent at least equal to 50 percent of the value of a Tri-Met all-zone transit pass.

(3) An employer must submit this documentation with an exemption application to the Department by the deadline for plan or notice submittal and certify that they continue to meet these requirements every two years. Employers meeting the requirements of this rule do not need to conduct a baseline survey of employees. However, employers whose applications are denied must then conduct a baseline survey and submit the findings to the Department within 90 days of notice by the Department.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0210 Can an Existing Employer Comply with ECO Through Restricted Parking Ratios?**

An employer will be considered to have met the target trip reduction and is exempt from the ECO rules if the employer provides documentation of the following. An employer must submit this documentation with an exemption application to the Department by the deadline for plan or notice submittal and certify that they continue to meet these requirements every two years. Employers meeting the requirements of this rule do not need to conduct a baseline survey of employees. However, employers whose applications are denied must then conduct a baseline survey and submit the findings to the Department within 90 days of notice by the Department.

(1) Work site is located in an area with maximum parking ratio requirements at least as stringent as the Department's maximum parking ratios (see OAR 340-242-0300 through 340-242-0390);

(2) Free or subsidized all-day parking is generally unavailable within a one-half mile radius of the work site; and

(3) If the employer provides free or subsidized parking, including leased parking, above the Department's maximum parking ratio to any employees at the work site (except to employees required to have a vehicle at the work site as a condition of employment), then either:

(a) A transportation allowance is offered to those employees provided free or subsidized parking that exceeds the Department's maximum parking ratio. The transportation allowance must be offered in lieu of the free or subsidized parking in an amount equal to or greater than the amount of the subsidy, but not to exceed the maximum allowed for transit by the Internal Revenue Service for the Qualified Transportation Fringe Benefits included under Section 132(F), Notice 94-3 of the tax code; or

(b) All employees at the work site are offered a transit subsidy or its equivalent at least equal to 50 percent of the value of a Tri-Met all-zone transit pass.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0220 What if an Employer Has More Than One Work Site Within the Portland AQMA?**

(1) An employer with more than one work site in the Portland AQMA may average its target trip reduction among those work sites in the AQMA. An employer must survey all included work sites every two years. Survey findings may be reported in aggregate or separately.

(2) One trip reduction plan may be developed for all work sites of an individual employer, but strategies must be selected based on the specific transportation characteristics of each work site.

(3) Work sites with 100 or fewer employees may be included in the interest of averaging trip reductions among all work sites. Those work sites must then survey and findings must be included in the employer's report to the Department.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0230 Can Employers Submit a Joint Plan?**

Different employers with work sites located near each other and with common transportation needs may develop a joint trip reduction plan for all affected work sites. The plan must address each work site individually and each employer is individually accountable for meeting all ECO requirements. Each employer must report survey findings for each specific work site, and the ten percent trip reduction target applies to each employer's work sites. Trip reductions may not be averaged among employers.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0240 Are There Alternatives to Trip Reduction?**

Alternatives to trip reduction include:

(1) Employers may purchase surplus trip reductions from other employers required to comply

with ECO to meet part or all of the target trip reduction. Surplus trips must be documented by survey before sale and must be maintained. The Department must approve proposed transactions prior to finalizing. The Department will confirm surplus trip transactions by letter to both employers.

(2) Employers may substitute equivalent emission reductions to meet their target trip reduction. Equivalent emission reduction proposals must be included in the employer's trip reduction plan or submitted with the notice of intent to comply without an approved plan. In order to receive credit as an equivalent emission reduction, the Department must review and approve proposals before an employer implements the strategy. Employers selecting equivalent emission reduction strategies must meet the following requirements:

(a) Employer sufficiently documented emission calculations so that the Department can quantify and verify the reduction;

(b) Employer calculated equivalent emissions according to guidelines issued by the Department. The Department must approve any alternate or modified calculation methods;

(c) Employer submits, on the same schedule as the biennial survey findings, documentation of actual equivalent emissions achieved;

(d) Equivalent emission reductions may not be bought or sold between employers for the purpose of meeting the target trip reduction.

(3) Employers may contribute to an emission reduction fund at an annual rate of \$100 per employee at the work site (see OAR 340-242-0060 to determine count of employees). An employer making partial progress toward the target trip reduction may choose to contribute proportionate to the percentage of the target trip reduction yet to be achieved. The emission reduction fund will be administered through Metro for new transit service, local jurisdiction alternative mode projects, and business-based Transportation Management Association (TMA) programs that result in trip reductions. Employers must make annual payments over the compliance period. The amount will be adjusted annually according to the Consumer Price Index.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0250 What Alternatives Qualify as Equivalent Emission Reductions?**

Equivalent emission reduction alternatives at the work site include, but are not limited to, the following:

(1) Use of alternative fueled vehicles (employer or employee vehicles);



- (2) Vehicle scrappage (older high-emitting employee or employer vehicles);
- (3) Forklift replacement (lower emitting technology);
- (4) Lawn mower replacement (may include lawn mowers employees use at home if home is located within the Portland AQMA);
- (5) Motor boat motor replacement (may include motor boats owned by employees who live within the Portland AQMA);
- (6) Reductions in air pollution emissions from non-vehicle sources at the work site;
- (7) Reductions in non-commute vehicle traffic to the work site or within the work site.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0260 Can Employers Get Credit for Existing Trip Reduction Programs?**

The Department may grant credits for documented trip reductions that occurred at an employer's work site any time before establishing a baseline auto trip rate. Credits will be granted upon approval by the Department. The Department will approve or deny the employer's request for credit by letter to the employer. If the employer objects to any condition or limitation in that letter, the employer may request a contested case hearing as described in OAR 340-242-0170.

- (1) Employers must demonstrate that pre-existing trip reduction programs resulted in actual trip reductions by providing:
  - (a) A description of the trip reduction programs and how they were implemented;
  - (b) The period of time that the programs have been in place;
  - (c) Survey findings or comparable documentation that demonstrates a ten percent reduction in the auto trip rate for the work site; and
  - (d) Current survey findings or comparable documentation verifying the employer has maintained the reduced auto trip rate.
- (2) Applications for credits must be submitted to the Department with the trip reduction plan or notice of intent to reduce trips through participation in an equivalent commute trip reduction program.

(3) Credits will not be discounted and will be granted on a one-for-one basis.

(4) Trips documented for the purpose of receiving credits may not be bought or sold to other employers for the purpose of meeting the target trip reduction.

(5) Alternately, an employer may choose to provide documentation that its single occupant vehicle commute rate, at the time of registration, is equal to or less than two standard deviations below the mean rate for the Metro transportation zone which includes the employer's work site. Commute data for Metro's transportation zones is available from the Department.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0270 Are Exemptions Allowed if an Employer is Unable to Reduce Trips or Take Advantage of Alternate Compliance Options?**

(1) An employer is fully exempt from OAR 340-242-0010 through 340-242-0290 if the employer submits reasonable documentation for each of the following:

(a) Work site is located in an area for which:

(A) Public transit service during work shift changes is less frequent than thirty minute intervals; or

(B) The public transit service point is further than one-half mile from employee's usual parking area; or

(C) Work shift changes occur between 8:30 p.m. and 5:30 a.m..

(b) Upon completing the employee survey and providing reasonable promotion for a carpool matching program, employees indicating a willingness to car/vanpool cannot be matched within the work site or through Tri-Met's carpool matching database or employee turnover rate is greater than 50 percent per year;

(c) The nature of employees' work requires them to perform their work at the work site or during specific hours and days, eliminating the possibility of telecommuting or compressed work weeks/hours; and

(d) No options exist for the employer to achieve equivalent emission reductions at no net annualized cost to the employer (including both capital and operating costs).

(2) Partial exemptions.

(a) The Department will grant a partial exemption for that portion of an employer's work force for which sections (1)(a) through (c) of this rule apply;

(b) The Department will grant a partial exemption for section (1)(d) of this rule in direct proportion to the remaining work trips to be reduced after quantifying all available equivalent emission reductions.

(3) Employers must submit requests for partial or total exemptions to the Department, on application forms provided by the Department, by the deadline for plan or notice submittal. The Department will approve or deny the employer's request for exemption by letter to the employer. If the employer objects to any condition or limitation in that letter, the employer may request a contested case hearing as described in OAR 340-242-0170.

(4) Employers must renew requests for exemptions every three years.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0280 Participation in the Industrial Emission Management Program**

Employers that donate unused Plant Site Emission Limit (PSEL) to the Department's Industrial Emission Management program (see OAR 340-242-0400 through 340-242-0440) are exempt from the ECO rules.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

### **340-242-0290 What Kind of Records Must be Kept and for How Long?**

Employers must maintain records at the work site or other central location within the Air Quality Maintenance Area for at least three years, and must make those records available to the Department upon request. Records must include:

(1) The contents and results of employee surveys or other information gathering efforts;

(2) A full description of all measures and incentives offered to employees and the associated employee responses;

(3) Other information associated with the development, implementation, evaluation, or modification of the trip reduction program.

*State effective: 4/12/2007; EPA approval: 12/19/2011, 76 FR 78571; EPA effective: 1/18/2012*

## **VOLUNTARY MAXIMUM PARKING RATIO PROGRAM**

### **340-242-0300 What is the Voluntary Parking Ratio Program?**

The Voluntary Parking Ratio Program encourages property owners to voluntarily locate and design facilities that need less parking by building in a more pedestrian, bicycle and transit friendly manner.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0310 Who can Participate in the Voluntary Parking Ratio Program?**

Any property owner constructing a new development or a re-development of an existing site that adds new building floor area and requires new parking spaces in the Portland Air Quality Maintenance Area (AQMA) for the specific land uses defined below in 340-242-0320.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0320 Definitions of Terms and Land Uses**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-242-0300 through 340-242-0390. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0300 through 340-242-0390.

#### **(1) General Definitions:**

(a) “AQMA” means the Portland Air Quality Maintenance Area as defined in OAR 340-204-0010.

(b) “CCTMP” means the Central City Transportation Management Plan as defined by ordinance number 169535 and resolution number 35472, adopted by City of Portland City Council December 6, 1995, effective January 8, 1996.

(c) “Department” means the Department of Environmental Quality.

(d) “Director” means the Director or the Director’s designee.

(e) “Employee Commute Options Program” or “Employee Commute Options Rule” means OAR 340-242-0010 through 340-242-0290.

(f) “Gross Floor Area” means the total area expressed in square feet of all floors of a building that include halls, stairwells, elevator shafts, basements, mezzanines or upper floors but excludes structured parking. Gross floor area is measured to the outside surfaces of exterior wall.

(g) “Gross Leasable Area” means total building area expressed in square feet designed for tenant occupancy and exclusive use that includes basements, mezzanines or upper floors, but does not include stairwells, elevator shafts. Gross leasable area is measured to the inside surfaces of

exterior walls. Gross leasable area is that area for which tenant pays rent; it is the area that produces income.

(h) “OAR” means Oregon Administrative Rules.

(i) “Parking Ratio Permit” means a permit in letter form issued by the Department, bearing the signature of the Director or designee, that specifies the property owner’s requirements under the parking ratio program.

(j) “Parking Ratio Program” means the Voluntary Parking Ratio Program, OAR 340-242-0300 through 340242-0390.

(k) “Parking Space” means any off-street area of space below, above or at ground level, open or enclosed that is used for parking one motor vehicle at a time. If the property owner intends to stack cars (valet parking) on-site and off-site, the total area or areas used for parking must be calculated as parking spaces, not just the striped parking spaces. This does not include handicapped parking spaces officially designated pursuant to the **Americans with Disabilities Act**.

(l) “Property Owner” means individual, corporation, partnership, limited partnership (reflecting the proposed development), association, government, firm or joint stock company who owns title to real property.

(2) Land Use Definitions:

(a) “Bank with Drive-In and Walk-In” means banking facilities for motorists remaining in a vehicle and for someone walking into the building.

(b) “Commercial Retail” means either a free standing store or an integrated group of retail establishments planned, developed and managed as a unit. These retail facilities offer a variety of products, but do not include a separate grocery store.

(c) “Fast-food Restaurant with Drive-In Window” means a fast food restaurant with motor vehicle drive-in window order service.

(d) “General Office” means an office usually housing single or multiple tenants including, but not limited to, professional services; characterized by landscaped office park or campus-type atmosphere; a group of buildings where the tenant space is flexible to house a variety of uses including, but not limited to, start-up companies or small mature companies that require a variety of space, such as research and development, engineering, or biotechnology; or a facility that

houses one or more agencies of city, county, state, federal or other governmental unit. These facilities may also include tenant and support services including, but not limited to, banks, restaurants and other small retail support services.

(e) “Light Industrial, Industrial Park, Manufacturing” means an area containing a number of industrial or related facilities such as office, warehouse, research and associated functions, manufacturing and fabrication; facilities that are diversified which may have a large number of small businesses and others with one or two dominant industries; or facilities with features including, but not limited to, craneways, heavy power, grade and/or dock level doors.

(f) “Medical Clinic/Hospital/Dental Clinic” means a facility that provides diagnostic outpatient care and is equipped to provide prolonged in-patient medical care.

(g) “Movie Theater” means indoor cinemas showing motion pictures. Live stage performances are not included in this land use.

(h) “Other Restaurants” means other establishments serving food for immediate consumption that are not classified as fast food with drive-in.

(i) “Place of Worship” means church, synagogue or other religious facility.

(j) “Schools” means a facility attended by students, including senior high school, junior college, technical college and university levels.

(k) “Sports Club and Recreational Facilities” means a facility offering multiple types of fitness activities including, but not limited to, basketball, tennis, racquetball, volleyball and basketball courts, weight training, aerobics, jazzercise, running. The facility may also include a sauna, swimming pool, game rooms and/or meeting rooms.

(l) “Supermarket” means a retail store selling a complete assortment of food and food preparation materials, household items, and other retail items; may include pharmacies, delicatessens, and snack bars.

(m) “Tennis and Racquetball Courts” means a facility where the predominant activity is tennis courts and/or racquetball courts; it may include exercise facilities.

(n) “Warehouse” means a facility that is primarily devoted to the storage of materials, but may also include some office and maintenance areas.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0330 How Does a Property Owner Comply with the Voluntary Parking Ratio**

## **Program?**

A property owner complies by building no more than the number of parking spaces specified by maximum parking ratios in OAR 340-242-0390 and obtaining a Parking Ratio Permit from the Department.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

## **340-242-0340 What are the Incentives for Complying with the Voluntary Parking Ratio Program?**

(1) Employers in the development receive an exemption from the Employee Commute Options program in OAR 340-242-0010 through OAR 340-242-0290.

(2) Property owners who require other air and water permits from the Department receive priority permit processing.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

## **340-242-0350 Why Do I Need a Parking Ratio Permit?**

(1) The parking ratio permit formally documents the agreement with the Department to construct parking within the maximum parking ratio and it provides an enforcement mechanism if the property owner builds more parking without the Department's approval.

(2) The parking ratio permit formally exempts applicable employers from the Employee Commute Options rule requirements.

(3) The parking ratio permit formally provides priority permit processing for other air and water permits from the Department.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

## **340-242-0360 What is Required to Obtain a Parking Ratio Permit?**

Any property owner who chooses to limit construction of parking facilities at its site must submit the following information:

(1) A completed permit application form;

(2) Identification of the proposed land uses in OAR 340-242-0320;

(3) A map showing the location of the site;

- (4) A site plan showing the location of the parking and the total number of parking spaces proposed;
- (5) Quantification of the gross leasable area and gross floor area of the buildings proposed for the site and the associated parking ratio;
- (6) Facts about design and location features that will allow the facility to meet the trip demand with less parking. This can be documented by completing the Department's Parking Ratio Checklist or providing similar documentation.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0370 How is the Parking Ratio Program Enforced?**

- (1) A Parking Ratio Permit is a written permit in letter form issued by the Department bearing the signature of the Director or his/her designee.
- (2) The general permitting provisions of Oregon Administrative Rules, Chapter 340, Division 14 apply (issuance, renewal, denial, suspension), except that OAR 340-014-0025 (public notice requirement) does not apply.
- (3) An employer is no longer exempt from the ECO rule requirements if the property owner fails to comply with the terms of the Parking Ratio letter permit.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0380 When Will the Department Act on a Submitted Permit Application?**

- (1) The Department will notify the applicant within 15 days of filing an application if further information is needed or if the application is complete.
- (2) The Department will grant or deny a letter permit within 45 days of receiving a complete application.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-242-0390 What are the Applicable Parking Ratios?**

**TABLE 1.**

## **DEPARTMENT OF ENVIRONMENTAL QUALITY VOLUNTARY MAXIMUM PARKING RATIOS FOR THE PORTLAND AQMA**

Parking ratios are based on spaces per 1,000 sq ft GLA means gross leasable area



GFA means gross floor area

**CCTMP Areas: Downtown parking sectors 1-6, University District and River District parking sectors 3-5 of the CCTMP**

Bank with Drive-In: River District parking sectors 3-5 — 4.3 (gfa) Bank with Drive-In is a prohibited land use in Downtown sectors 1-6, University District.

Bank with Walk-In — 1.0-2.0\* (gfa)

Place of Worship — .25\*(gfa)

Commercial Retail\*\* — 1.0-2.0\* (gfa)

Fast Food with Drive Thru: River District parking sectors 3-5 — 9.9 (gla) Fast Food with Drive Thru is a prohibited land use in Downtown sectors 1-6, University District.

Other Restaurants — 1.0-2.0\* (gfa)

General Office — .7-2.0\* (gfa)

Light Industrial, Industrial Park, Manufacturing — .7 (gfa)

Medical & Dental — .07-2.0\* (gfa)

Movie Theater — .25 (gfa)

Schools — 1.0-2.0\* (gfa)

Sports Club & Recreational Facility — 1.0-2.08 (gfa)

Supermarket\*\* — 1.0-2.0\* (gfa)

Tennis & Racquetball Court — 1.0-2.0\* (gfa)

Warehouse — .7 (gfa) This parking ratio applies to all sizes of warehouses

**CCTMP Areas: Central Eastside parking sectors 2 & 3, Goose Hollow and Lloyd District of the CCTMP**

Bank with Drive-In: Central Eastside parking sectors 2 & 3 and Lloyd District — 4.3 (gla) Bank with Drive-In is a prohibited land use in Goose Hollow.

Bank with Walk-In — 4.3 (gla)

Place of Worship — .5 (gfa)

Commercial Retail\*\* — 4.1 (gfa)

Fast Food with Drive-Thru: Central Eastside parking sectors 2 & 3 and Lloyd District — 9.9 (gla) Fast Food with Drive Thru is a prohibited land use in Goose Hollow.

Other Restaurants — 15.3 (gla)

General Office — 2.0-2.5 (gfa)

Light Industrial, Industrial Park, Manufacturing — 1.6 (gfa)

Medical & Dental — 3.9 (gla)

Movie Theater — .3 (spaces per number of seats)

Schools — .2 (spaces per number of students & staff)

Sports Club & Recreational Facility — 4.3 (gla)

Supermarket\*\* — 2.9 (gla)

Tennis & Racquetball Court — 1.0 (gla)

Warehouse — .3 (gla) This parking ratio applies to warehouses that are greater than 150,00 sq. ft.

**CCTMP Areas: Lower Albina, North Macadam, Central Eastside parking sectors 1, 4-6 and River District 1 & 2 of the CCTMP**

Bank with Drive-In — 4.3 (gla)

Bank with Walk-In — 4.3 (gla)

Place of Worship — .5 (gfa)

Commercial Retail\*\* — 4.1 (gfa)

Fast Food with Drive-Thru — 9.9 (gla)

Other Restaurants — 15.3 (gla)

General Office — 2.7 (gla)

Light Industrial, Industrial Park, Manufacturing — 1.6 (gfa)

Medical & Dental — 3.9 (gla)

Movie Theater — .3 (spaces per number of seats)

Schools — .2 (spaces per number of students & staff)

Sports Club & Recreational Facility — 4.3 (gla)

Supermarket\*\* — 2.9 (gla)

Tennis & Racquetball Court — 1.0 (gla)

Warehouse — .3 (gla) This parking ratio applies to warehouses that are greater than 150,000 sq. ft.

**Outside CCTMP: Areas outside of CCTMP areas, but inside AQMA boundary**

Bank with Drive-In — 4.3 (gla)

Bank with Walk-In — 4.3 (gla)

Place of Worship — .5 (gfa)

Commercial Retail\*\* — 4.1 (gfa)

Fast Food with Drive-Thru — 9.9 (gla)

Other Restaurants — 15.3 (gla)

General Office — 2.7 (gla)

Light Industrial, Industrial Park, Manufacturing — 1.6 (gfa)

Medical & Dental — 3.9 (gla)

Movie Theater — .3 (spaces per number of seats)

Schools — .2 (spaces per number of students & staff)

Sports Club & Recreational Facility — 4.3 (gla)

Supermarket\*\* — 2.9 (gla)

Tennis & Racquetball Court — 1.0 (gla)

Warehouse — .3 (gla) This parking ratio applies to warehouses that are greater than 150,000 sq. ft.

Note: \*See parking ratios for specific parking sectors in Central City Transportation Management Plan (CCTMP) adopted by the Portland City Council December 6, 1995.

Note: \*\*See the CCTMP for definition of the land uses Commercial Retail and Supermarket that are located in the CCTMP.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

## INDUSTRIAL EMISSION MANAGEMENT PROGRAM

### **340-242-0400 Applicability**

(1) OAR 340-242-0430 through 340-242-0440 apply to all new sources or modifications at existing sources that have increases of VOC or NO<sub>x</sub> equal to or greater than the SER and are located in the Portland Air Quality Maintenance Area.

2) OAR 340-242-0430 and 340-242-0440 apply to new sources and modifications at existing sources that have increases of CO equal to or greater than the SER and are located within the Portland Metro area or outside the Portland Metro area but that will have a significant impact within the Portland Metro area.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-242-0410 Definition of Terms**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-242-0400 through 340-242-0440. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0400 through 340-242-0440.

(1) "PSEL" means the Plant Site Emission Limit of an individual regulated pollutant specified in an Air Contaminant Discharge Permit or Title V permit issued to a source by DEQ, pursuant to OAR 340 division 216 or 218.

(2) "Unused PSEL" means the difference between a source's actual emissions and its permitted level or PSEL in 1990 or 1992, whichever is lower, as determined through DEQ's emission inventory data.

(3) "Unused PSEL Donation Source" means any source that voluntarily returned to DEQ unused PSEL, as part of the Unused PSEL Donation Program in OAR 340-242-0420.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-242-0420 Unused PSEL Donation Program**

(1) This program encourages owners or operators of VOC and NO<sub>x</sub> sources identified in OAR 340-242-0400(1) to donate unused PSEL to DEQ. Under this program, donations can be either permanent or temporary. For a source to participate in this program it must have entered into an agreement with DEQ prior to January 1, 2006.

(2) VOC sources donating at least 35 percent of their unused PSEL and NO<sub>x</sub> sources donating at least 50 percent of their unused PSEL will receive the following incentives and considerations from DEQ for participating in this program:

(a) Exemption from the Employee Commute Options (ECO) Program in OAR 340-242-0010 through 340-242-0290 for the duration of the Portland Ozone Maintenance plan;

(b) Priority permit processing for any required air quality permit;

(c) In accordance with OAR 340-242-0430 and 340-242-0440(1), priority use of up to 50 percent of any remaining growth allowance. This applies only to sources making permanent donations, pursuant to section (3); and

(d) Other considerations may be added to the donation agreement on a case-by-case basis, consistent with DEQ's rules and statutes.

(3) DEQ will adjust the PSEL of sources providing permanent donations to reflect the emissions donated. Permanent donations will result in adjustment to the source's baseline emission rate and PSEL, consistent with the definition of "major modification" under OAR 340-224-0025 and changes to PSELs required under 340-222-0035.

(4) Sources participating in this program must enter into a donation agreement with DEQ that identifies the commitments of both parties. Any such agreement is legally binding and enforceable.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-242-0430 Industrial Growth Allowances**

(1) This rule establishes industrial growth allowances for sources identified in OAR 340-242-0400. The amount of each growth allowance is defined in the SIP and is on file with DEQ.

(2) The owner or operator of a source subject to this division may obtain a portion of the respective growth allowance pursuant to OAR 340-242-0440.

3) If no emissions remain in the respective growth allowance, the owner or operator must provide offsets as required under OAR 340 division 224.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-242-0440 Industrial Growth Allowance Allocation**

(1) The owner or operator of a source subject to this division may obtain a portion of any remaining emissions in the respective growth allowance in accordance with procedures described in the SIP that is on file with DEQ, and based on the following conditions:

(a) Access is on a first-come-first-served basis, based on the submittal date of a complete permit application;

(b) Unused PSEL donation sources that meet the donation criteria specified in OAR 340-242-0420(2) have priority access to their respective growth allowance as a "tie-breaker" over non-donation sources;

(c) Except as provided below, no single source may receive an emissions allocation of more than 1,000 tons of either VOC or NO<sub>x</sub> or more than 50% of any remaining growth allowance; and

(d) A single source must apply to the EQC to receive more than 1,000 tons of VOC or NO<sub>x</sub>, but in no case more than 50% of the remaining growth allowance. To apply, sources must submit air quality and other information as required by DEQ justifying its request and must include information on significant economic, employment, or other benefits to the Portland area that will result from the proposed source, and the availability of emissions offsets. DEQ will evaluate ozone levels and expected trends to determine whether the proposed facility poses any risk to maintaining compliance with the ozone air quality standard prior to making a recommendation to the EQC regarding the source application.

(2) The amount of the CO growth allowance that can be allocated is identified in the Portland Area Carbon Monoxide Maintenance Plan, Section 4.58 of Volume 2 of the SIP on file with DEQ.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **GASOLINE VAPORS FROM GASOLINE TRANSFER AND DISPENSING OPERATIONS**

#### **340-242-0500 Purpose and Applicability**

(1) Gasoline vapors contribute to the formation of ozone. OAR 340-242-0500 through 340-242-0520 require the control of gasoline vapors from gasoline dispensing operations.

(2) OAR 340-242-0500 through 340-242-0520 apply to gasoline dispensing facilities located within Clackamas, Multnomah and Washington Counties.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

#### **340-242-0510 Definitions**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-242-0500 through 340-242-0520. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0500 through 340-242-0520.

(1) "Equivalent control" means the use of alternate operational and/or equipment controls for the reduction of gasoline vapor emissions, that have been approved by DEQ, such that the aggregate emissions of gasoline vapor from the facility do not exceed those from the application of defined reasonably available control technology.

(2) "Gasoline" means any petroleum distillate having a Reid vapor pressure of four pounds per square inch (28 kilopascals) or higher, used as a motor fuel.

(3) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle, boat, or airplane gasoline tanks from stationary storage tanks.

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

(5) "Stage I vapor collection system" means a system where gasoline vapors are forced from a tank into a vapor-tight holding system or vapor control system through direct displacement by the gasoline being loaded.

(6) "Stage II vapor collection system" means a system where at least 90 percent, by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling are transferred to a vapor-tight holding system or vapor control system.

(7) "Substantially modified" means a modification of an existing gasoline-dispensing facility which involves the addition of one or more new stationary gasoline storage tanks or the repair, replacement or reconditioning of an existing tank.

(8) "Vapor control systems" means a system that prevents emissions to the outdoor atmosphere from exceeding 4.7 grains per gallon (80 grams per 1,000 liters) of petroleum liquid loaded.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

### **340-242-0520 General Provisions**

(1) No owner and/or operator of a gasoline-dispensing facility may transfer or allow the transfer of gasoline into a motor vehicle fuel tank at gasoline-dispensing facilities located in Clackamas, Multnomah or Washington Counties whose annual throughput exceeds 600,000 gallons, unless the gasoline-dispensing facility is equipped with a stage II vapor collection system which must

be approved by DEQ before it is installed.

[NOTE: Underground piping requirements are described in OAR 340-150-0300 and 40 CFR 280.20(d). Systems installed according to Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems" or American Society of Mechanical Engineers Standard B31.4 "Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids" are considered approved systems.]

(2) Owners and/or operators of gasoline-dispensing facilities subject to stage II vapor collection requirements must:

- (a) Install all necessary stage II vapor collection and control systems, and make any modifications necessary to comply with the requirements;
- (b) Provide adequate training and written instructions to the operator of the affected gasoline-dispensing facility and the gasoline transport vehicle;
- (c) Replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the stage II vapor collection systems; and
- (d) Connect and ensure proper operation of the stage II vapor collection systems whenever gasoline is being loaded, unloaded or dispensed.

(3) Approval of a stage II vapor collection system by DEQ does not relieve the owner and/or operator of the responsibility to comply with other applicable codes and regulations pertaining to fire prevention, weights and measures and safety matters.

(4) Regarding installation and testing of piping for stage II vapor collection systems:

- (a) Piping must be installed in accordance with standards in OAR 340 division 150;
- (b) Piping must be installed by a licensed installation service provider pursuant to OAR 340 division 160; and
- (c) Piping must be tested prior to being placed into operation by an installation or tank tightness testing service provider licensed pursuant to OAR 340 division 160.

(5) Test methods are based on methods used in other states with established stage II programs. See DEQ, Operations Division, for copies of the approved test methods.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

## MOTOR VEHICLE REFINISHING

### **340-242-0600 Applicability**

OAR 340-242-0600 through 340-242-0630 apply to any person who owns, leases, operates or controls a motor vehicle refinishing facility in the Portland AQMA.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-242-0610 Definitions**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in 340-242-0600 through 340-242-0630. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in 340-242-0600 through 340-242-0630.

(1) "High volume, low pressure spray", or "HVLP" means equipment used to apply coatings with a spray device which operates at a nozzle air pressure between 0.1 and 10 pounds per square inch gravity (psig).

(2) "Motor vehicle" means a vehicle that is self-propelled or designed for self-propulsion as defined in ORS 801.360.

(3) "Motor vehicle refinishing" means the application of surface coating to on-road motor vehicles or non-road motor vehicles, or their existing parts and components, except Original Equipment Manufacturer (OEM) coatings applied at manufacturing plants.

(4) "Motor vehicle refinishing coating" means any coating designed for, or represented by the manufacturer as being suitable for motor vehicle refinishing.

(5) "Motor vehicle refinishing facility" means a location at which motor vehicle refinishing is performed.

(6) "Non-road motor vehicle" means any motor vehicle other than an on-road motor vehicle. "Non-Road Motor Vehicle" includes, but is not limited to, fixed load vehicles, farm tractors, farm trailers, all-terrain vehicles, and golf carts as these vehicles are defined in ORS Chapter 801.

(7) "On-road motor vehicle" means any motor vehicle which is required to be registered under ORS 803.300 or exempt from registration under 803.305(5), 803.305(6), or 803.305(15) through 803.305(19). "On-Road Motor Vehicle" includes, but is not limited to: passenger cars, trucks, vans, motorcycles, mopeds, motor homes, truck tractors, buses, tow vehicles, trailers other than farm trailers, and camper shells.

(8) "Public highway" means every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.



(9) "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-242-0620 Requirements for Motor Vehicle Refinishing in Portland AQMA**

Except as provided in section (3) of this rule, persons performing motor vehicle refinishing of on-road motor vehicles within the Portland AQMA shall:

Except as provided in section (3), persons performing motor vehicle refinishing of on-road motor vehicles within the Portland AQMA must:

(1) Clean any spray equipment, including paint lines, in a device which:

- (a) Minimizes solvent evaporation during the cleaning, rinsing, and draining operations;
- (b) Recirculates solvent during the cleaning operation so the solvent is reused; and
- (c) Collects spent solvent to be available for proper disposal or recycling; and

(2) Apply motor vehicle refinishing coatings by one of the following methods:

- (a) High Volume Low Pressure spray equipment, operated and maintained in accordance with the manufacturer's recommendations;
- (b) Electrostatic application equipment, operated and maintained in accordance with the manufacturer's recommendations;
- (c) Dip coat application;
- (d) Flow coat application;
- (e) Brush coat application;
- (f) Roll coat application;
- (g) Hand-held aerosol cans; or
- (h) Any other coating application method which can be demonstrated to effectively control VOC emissions, and which has been approved in writing by DEQ.

(3) This rule is not applicable to any person who performs motor vehicle refinishing without compensation, and who performs refinishing on two or fewer on-road motor vehicles, or portions thereof, in any calendar year.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **340-242-0630 Inspecting and Testing Requirements**

The owner or operator of any facility subject to OAR 340-242-0600 through 340-242-0630 must, at any reasonable time, make the facility available for inspection by DEQ.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 244**

### **OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM<sup>2 3</sup>**

#### **GENERAL PROVISIONS FOR STATIONARY SOURCES**

#### **340-244-0030 Definitions**

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

(1) "Affected source" is as defined in 40 CFR 63.2.

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

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

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

*State effective: 1/21/2021; EPA approval: 8/11/2021, 86 FR 43954; EPA effective: 9/10/2021*

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

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<sup>2</sup> Only for the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas, as well as all of Clackamas, Multnomah, and Washington counties.

<sup>3</sup> The EPA approves Division 244 only to the extent needed to implement the requirements for gasoline dispensing facilities that are approved into the SIP for the purposes of regulating VOC emission.

tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (a) through (f) of this definition:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) "Major Source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per

year or more of any combination of hazardous air pollutants. The EPA may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

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

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

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

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

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

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

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

(23) "Reconstruct a Major Source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever: the fixed capital cost of the new

components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and; it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under 40 CFR Part 63 Subpart B.

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

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

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

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

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

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

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

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

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

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

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

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

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

## EMISSION STANDARDS FOR GASOLINE DISPENSING FACILITIES

### **340-244-0232 Purpose**

This rule establishes emission limitations and management practices for hazardous air pollutants and volatile organic compounds emitted from the loading of gasoline storage tanks and dispensing of fuel at gasoline dispensing facilities. This rule also establishes requirements to demonstrate compliance with the emission limitations and management practices.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

### **340-244-0234 Affected Sources**

(1) The affected source to which the emission standards apply is each GDF. The affected source includes each gasoline cargo tank during the delivery of product to a GDF and also includes each storage tank.

(2) The emissions standards in OAR 340-244-0236 through 340-244-0252 do not apply to agricultural operations as defined in ORS 468A.020. Agricultural operations are however required to comply with the Gasoline Dispensing NESHAP, if applicable (40 CFR part 63 subpart CCCCCC).

(3) All GDFs must comply with the requirements of OAR 340-244-0240.

(4) The owner or operator of a GDF must comply with the requirements of OAR 340-244-0242 for the following gasoline storage tanks:

(a) All tanks with a capacity of 250 gallons or more located at GDFs:

(A) Whose annual throughput is 480,000 gallons of gasoline or more;

(B) Whose monthly throughput is 100,000 gallons of gasoline or more; or

(C) In Clackamas, Multnomah, or Washington County whose annual throughput is 120,000 gallons of gasoline or more.

(b) All tanks with a capacity of 1,500 gallons or more located at GDFs in the Portland AQMA, Medford AQMA, or Salem-Keizer in the SKATS.

- (5) The owner or operator of a GDF must comply with the requirements of OAR 340-244-0242(4) for any gasoline storage tank equipped with a vapor balance system.
- (6) An affected source must, upon request by DEQ or the EPA Administrator, demonstrate its annual or monthly throughput. For new or reconstructed affected sources, as specified in OAR 340-244-0236(2) and (3), recordkeeping to document monthly throughput must begin upon startup of the affected source. For existing sources, as specified in OAR 340-244-0236(4), recordkeeping to document monthly throughput must begin on January 10, 2008. For existing sources that are subject only because they load gasoline into fuel tanks other than those in motor vehicles, as defined in OAR 340-244-0030, recordkeeping to document monthly throughput must begin on Jan. 24, 2011. Records required under this section must be kept for a period of 5 years.
- (7) The owner or operator of an affected source, as defined in section (1), is not required to obtain an Oregon Title V Operating Permit as a result of being subject to OAR 340-244-0236 through 340-244-0252. However, the owner or operator of an affected source must still apply for and obtain an Oregon Title V Operating Permit if meeting one or more of the applicability criteria found in OAR 340-218-0020.
- (8) The loading of aviation gasoline storage tanks at airports, and the subsequent transfer of aviation gasoline within the airport, is not subject to OAR 340-244-0236 through 340-244-0252, except in the Portland AQMA, Medford AQMA, Salem-Keizer in the SKATS, and Clackamas, Multnomah, and Washington Counties. In these geographic areas, aviation gasoline is subject to OAR 340-244-0236 through 340-244-0252.
- (9) Monthly throughput is the total volume of gasoline loaded into, or dispensed from, all the gasoline storage tanks located at a single affected GDF. If an area source has two or more GDFs at separate locations within the area source, each GDF is treated as a separate affected source.
- (10) If the affected source's throughput ever exceeds an applicable throughput threshold, the affected source will remain subject to the requirements for sources above the threshold, even if the affected source throughput later falls below the applicable throughput threshold.
- (11) The dispensing of gasoline from a fixed gasoline storage tank at a GDF into a portable gasoline tank for the on-site delivery and subsequent dispensing of the gasoline into the fuel tank of a motor vehicle or other gasoline-fueled engine or equipment used within the area source is only subject to OAR 340-244-0240(1).
- (12) For any affected source subject to the provisions of OAR 340-244-0232 through 340-244-0252 and another federal rule, the owner or operator may elect to comply only with the more stringent provisions of the applicable rules. The owner or operator of an affected source must



consider all provisions of the rules, including monitoring, recordkeeping, and reporting. The owner or operator of an affected source must identify the affected source and provisions with which the owner or operator of an affected source will comply in the Notification of Compliance Status required under OAR 340-244-0246. The owner or operator of an affected source also must demonstrate in the Notification of Compliance Status that each provision with which the owner or operator of an affected source will comply is at least as stringent as the otherwise applicable requirements in OAR 340-244-0232 through 340-244-0252. The owner or operator of an affected source is responsible for making accurate determinations concerning the more stringent provisions, and noncompliance with this rule is not excused if it is later determined that your determination was in error, and, as a result, the owner or operator of an affected source is violating OAR 340-244-0232 through 340-244-0252. Compliance with this rule is the owner's or operator's responsibility and the Notification of Compliance Status does not alter or affect that responsibility.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

### **340-244-0236 Affected Equipment or Processes**

(1) The emission sources to which this rule applies are gasoline storage tanks and associated equipment components in vapor or liquid gasoline service at new, reconstructed, or existing GDF that meet the criteria specified in OAR 340-244-0234. Pressure/vacuum vents on gasoline storage tanks and the equipment necessary to unload product from cargo tanks into the storage tanks at GDF are covered emission sources.

(2) An affected source is a new affected source if construction commenced on the affected source after Nov. 9, 2006, and the applicability criteria in OAR 340-244-0234 are met at the time operation commenced.

(3) An affected source is reconstructed if meeting the criteria for reconstruction as defined in 40 CFR 63.2.

(4) An affected source is an existing affected source if it is not new or reconstructed.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

### **340-244-0238 Compliance Dates**

(1) For a new or reconstructed affected source, the owner or operator must comply with the standards in OAR 340-244-0240 and 340-244-0242, as applicable, no later than Jan. 10, 2008 or upon startup, whichever is later, except as follows:

~~(a) The owner or operator of a new or reconstructed GDF must comply with OAR 340-244-0240(1)(b) and (c) no later than July 1, 2009 or upon startup, whichever is later.~~

(b) For tanks located at a GDF with average monthly throughput of less than 10,000 gallons of gasoline, the owner or operator must comply with the standards in OAR 340-244-0240(3) no later than Dec. 13, 2009.

(c) For tanks located at a GDF with average monthly throughput less than 100,000 gallons of gasoline and not listed in OAR 340-244-0234(4)(a)(C) or (4)(b), must comply with OAR 340-244-0242, as applicable, no later than Dec. 13, 2009 or upon startup, whichever is later.

(d) The owner or operator of a GDF subject to Table 2 of OAR 340-244-0242 must comply no later than Sep. 23, 2008 or upon startup, whichever is later.

(2) For an existing affected source, the owner or operator must comply with the standards in OAR 340-244-0240 and 340-244-0242, as applicable, by no later than Jan. 10, 2011, except as follows:

(a) For tanks with a capacity between 1,500 and 40,000 gallons and located in the Portland AQMA, Medford AQMA, or Salem SATS, the owner or operator must comply with the standards in OAR 340-244-0240(3) and 340-244-0242 no later than Dec. 13, 2008.

(b) For tanks located at an affected source located in Clackamas, Multnomah, or Washington County, whose annual throughput exceeds 120,000 gallons, the owner or operator must comply with the standards in OAR 340-244-0240(3) and 340-244-0242 no later than Dec. 13, 2008.

~~(c) The owner or operator of an existing GDF must comply with OAR 340-244-0240(1)(b) and (c) no later than July 1, 2009 or upon startup, whichever is later.~~

(3) For an existing affected source that becomes subject to the control requirements in OAR 340-244-0242 because of an increase in the monthly throughput, as specified in OAR 340-244-0234(4), the owner or operator must comply with the standards OAR 340-244-0242 no later than 3 years after the affected source becomes subject to the control requirements in OAR 340-244-0242.

(4) The initial compliance demonstration test required under OAR 340-244-0244(1)(a) and (b) must be conducted as specified in subsections (4)(a) and (b).

(a) For a new or reconstructed affected source, the owner or operator must conduct the initial compliance test upon installation of the complete vapor balance system.

(b) For an existing affected source, the owner or operator must conduct the initial compliance test as specified in paragraph (4)(b)(A) or (B) of this rule.

(A) For vapor balance systems installed on or before Dec. 15, 2009 at a GDF whose average monthly throughput is 100,000 gallons of gasoline or more, the owner or operator must test no later than 180 days after the applicable compliance date specified in section (2) or (3).

(B) For vapor balance systems installed after Dec. 15, 2009, the owner or operator must test upon installation of a complete vapor balance system or a new gasoline storage tank.

(C) For a GDF whose average monthly throughput is less than or equal to 100,000 gallons of gasoline, the owner or operator is only required to test upon installation of a complete vapor balance system or a new gasoline storage tank.

(5) If the GDF is subject to the control requirements in OAR 340-244-0232 through 340-244-0252 only because it loads gasoline into fuel tanks other than those in motor vehicles, as defined in OAR 340-244-0030, the owner or operator of the GDF must comply with the standards in OAR 340-244-0232 through 340-244-0252 as specified in subsections (5)(a) and (b).

(a) If the GDF is an existing facility, the owner or operator of the GDF must comply by Jan. 24, 2014.

(b) If the GDF is a new or reconstructed facility, the owner or operator of the GDF must comply by the dates specified in paragraphs (5)(b)(A) and (B).

(A) If startup of the GDF is after Dec. 15, 2009, but before January 24, 2011, the owner or operator of the GDF must comply no later than Jan. 24, 2011.

(B) If startup of the GDF is after Jan. 24, 2011, the owner or operator of the GDF must comply upon startup of the GDF.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

## EMISSION LIMITATIONS AND MANAGEMENT PRACTICES

### **340-244-0239 General Duties to Minimize Emissions**

Each owner or operator of an affected source must comply with the requirements of sections (1) and (2).

(1) The owner or operator of an affected source must, at all times, operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to DEQ and the EPA Administrator which may include,

but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(2) The owner or operator of an affected source must keep applicable records and submit reports as specified in OAR 340-244-0248(4) and 340-244-0250(2).

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

### **340-244-0240 Work Practice and Submerged Fill Requirements**

(1) The owner or operator of a GDF must not allow gasoline to be handled in a manner that would result in vapor releases to the atmosphere for extended periods of time. Measures to be taken include, but are not limited to, the following:

(a) Minimize gasoline spills;

~~(b) Do not top off or overfill vehicle tanks. If a person can confirm that a vehicle tank is not full after the nozzle clicks off, such as by checking the vehicle's fuel tank gauge, the person may continue to dispense fuel using best judgment and caution to prevent a spill;~~

~~(c) Post a sign at the GDF instructing a person filling up a motor vehicle to not top off the vehicle tank;~~

(d) Clean up spills as expeditiously as practicable;

(e) Cover all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use;

(f) Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.

(g) Ensure that cargo tanks unloading at the GDF comply with subsections (1)(a) through (e).

(2) Any cargo tank unloading at a GDF equipped with a functional vapor balance system must connect to the vapor balance system whenever gasoline is being loaded.

(3) Except as specified in section (4), the owner or operator of a GDF must only load gasoline into storage tanks at the facility by utilizing submerged filling, as defined in OAR 340-244-0030, and as specified in subsection (3)(a), (3)(b), or (3)(c). The applicable distances in subsections (3)(a) and (3)(b) must be measured from the point in the opening of the submerged fill pipe that is the greatest distance from the bottom of the storage tank.

- (a) Submerged fill pipes installed on or before Nov. 9, 2006, must be no more than 12 inches from the bottom of the storage tank.
- (b) Submerged fill pipes installed after Nov. 9, 2006, must be no more than 6 inches from the bottom of the storage tank.
- (c) Submerged fill pipes not meeting the specifications of subsection (3)(a) or (3)(b) are allowed if the owner or operator of a GDF can demonstrate that the liquid level in the tank is always above the entire opening of the fill pipe. Documentation providing such demonstration must be made available for inspection by DEQ and the EPA Administrator during the course of a site visit.
- (4) Gasoline storage tanks with a capacity of less than 250 gallons are not subject to the submerged fill requirements in section (3).
- (5) The owner or operator of a GDF must submit the applicable notifications as required under OAR 340-244-0246.
- (6) The owner or operator of a GDF must have records available within 24 hours of a request by DEQ or the EPA Administrator to document gasoline throughput.
- (7) The owner or operator of a GDF must comply with the requirements of this rule by the applicable dates specified in OAR 340-244-0238.
- (8) Portable gasoline containers that meet the requirements of 40 CFR part 59 subpart F are considered acceptable for compliance with subsection (1)(e).

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

### **340-244-0242 Vapor Balance Requirements**

- (1) Except as provided in section (2), the owner or operator of a gasoline storage tank listed in OAR 340-244-0234(4), must meet the requirements in either subsection (1)(a) or (1)(b).
  - (a) Each management practice in Table 2 of OAR 340-244-0242 that applies to the GDF.
  - (b) If, prior to Jan. 10, 2008, the owner or operator of a GDF operates a vapor balance system at the GDF that meets the requirements of either paragraph (1)(b)(A) or (1)(b)(B), the owner or operator of a GDF will be deemed in compliance with this section.
    - (A) Achieves emissions reduction of at least 90 percent.

(B) Operates using management practices at least as stringent as those in Table 2 of OAR 340-244-0242.

(2) Gasoline storage tanks equipped with floating roofs or the equivalent are not subject to the control requirements in section (1).

(3) The owner or operator of a cargo tank unloading at a GDF must comply with the requirements of OAR 340-244-0240(1) and management practices in Table 3 of OAR 340-244-0242.

(4) The owner or operator of a GDF subject to section (1) or having a gasoline storage tank equipped with a vapor balance system, must comply with the following requirements on and after the applicable compliance date in OAR 340-244-0238:

(a) When loading a gasoline storage tank equipped with a vapor balance system, connect and ensure the proper operation of the vapor balance system whenever gasoline is being loaded.

(b) Maintain all equipment associated with the vapor balance system to be vapor tight and in good working order.

~~(c) In order to ensure that the vapor balance equipment is maintained to be vapor tight and in good working order, have the vapor balance equipment inspected on an annual basis to discover potential or actual equipment failures.~~

~~(d) Replace, repair or modify any worn or ineffective component or design element within 24 hours to ensure the vapor tight integrity and efficiency of the vapor balance system. If repair parts must be ordered, either a written or verbal order for those parts must be initiated within 2 working days of detecting such a leak. Such repair parts must be installed within 5 working days after receipt.~~

(5) The owner or operator of a GDF subject to section (1) must also comply with the following requirements:

(a) The applicable testing requirements in OAR 340-244-0244.

(b) The applicable notification requirements in OAR 340-244-0246.

(c) The applicable recordkeeping and reporting requirements in OAR 340-244-0248 and 340-244-0250.

(d) The owner or operator of a GDF must have records available within 24 hours of a request by DEQ or the EPA Administrator to document gasoline throughput.

<p align="center"><b>Table 2</b>  <b>OAR 340-244-0242</b>  <b>Management Practices for Gasoline Dispensing Facilities Subject to Stage I Vapor Controls</b></p>	
<b>If owning or operating</b>	<b>The owner or operator must</b>
<p>1. An existing GDF</p>	<p>The permittee must install and operate a vapor balance system on gasoline storage tanks that meets the design criteria in paragraphs (a) through (h).</p> <p>(a) All vapor connections and lines on the storage tank must be equipped with closures that seal upon disconnect.</p> <p>(b) The vapor line from the gasoline storage tank to the gasoline cargo tank must be vapor-tight, as defined in OAR 340-244-0030.</p> <p>(c) The vapor balance system must be designed such that the pressure in the tank truck does not exceed 18 inches water pressure or 5.9 inches water vacuum during product transfer.</p> <p>(d) The vapor recovery and product adaptors, and the method of connection with the delivery elbow, must be designed so as to prevent the over-tightening or loosening of fittings during normal delivery operations.</p> <p>(e) If a gauge well separate from the fill tube is used, it must be provided with a submerged drop tube that extends the same distance from the bottom of the storage tank as specified in OAR 340-244-0240(2).</p> <p>(f) Liquid fill connections for all systems must be equipped with vapor-tight caps.</p>

**Table 2**  
**OAR 340-244-0242**

**Management Practices for Gasoline Dispensing Facilities Subject to Stage I Vapor Controls**

If owning or operating	The owner or operator must
	<p>(g) Pressure/vacuum (PV) vent valves must be installed on the storage tank vent pipes. The pressure specifications for PV vent valves must be: a positive pressure setting of 2.5 to 6.0 inches of water and a negative pressure setting of 6.0 to 10.0 inches of water. The total leak rate of all PV vent valves at an affected facility, including connections, must not exceed 0.17 cubic foot per hour at a pressure of 2.0 inches of water and 0.63 cubic foot per hour at a vacuum of 4 inches of water.</p> <p>(h) The vapor balance system must be capable of meeting the static pressure performance requirement of the following equation:</p> $P_f = 2e^{-500.887/v}$ <p>Where:</p> <p><math>P_f</math> = Minimum allowable final pressure, inches of water.</p> <p><math>v</math> = Total ullage affected by the test, gallons.</p> <p><math>e</math> = Dimensionless constant equal to approximately 2.718.</p> <p><math>2</math> = The initial pressure, inches water.</p>



<b>Table 2</b> <b>OAR 340-244-0242</b> <b>Management Practices for Gasoline Dispensing Facilities Subject to Stage I Vapor Controls</b>	
<b>If owning or operating</b>	<b>The owner or operator must</b>
<p>2. For a new or reconstructed GDF with monthly throughput of 100,000 gallons of gasoline or more, or a new storage tank(s) at an existing GDF with monthly throughput of 100,000 gallons of gasoline or more</p>	<p>The permittee must install and operate a dual-point vapor balance system, as defined in OAR 340-244-0030, on each affected gasoline storage tank and comply with the design criteria in item 1 of this Table.</p>

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

<b>Table 3</b> <b>OAR 340-244-0242</b> <b>Management Practices for Gasoline Cargo Tanks Unloading at Gasoline Dispensing Facilities Equipped with State I Vapor Controls</b>	
<b>If owning or operating</b>	<b>The owner or operator must</b>
<p>A gasoline cargo tank .....</p>	<p>Not unload gasoline into a storage tank at a GDF with stage I vapor controls unless the following conditions are met:</p> <ul style="list-style-type: none"> <li>(i) All hoses in the vapor balance system are properly connected,</li> <li>(ii) The adapters or couplers that attach to the vapor line on the storage tank have closures that seal upon disconnect,</li> <li>(iii) All vapor return hoses, couplers, and adapters used in the gasoline delivery are vapor-tight,</li> <li>(iv) All tank truck vapor return equipment is compatible in size and forms a vapor-tight connection with the vapor balance equipment</li> </ul>

	<p>on the GDF storage tank, and</p> <p>(v) All hatches on the tank truck are closed and securely fastened.</p> <p>(vi) The filling of storage tanks at GDF must be limited to unloading by vapor-tight gasoline cargo tanks. Documentation that the cargo tank has met the specifications of EPA Method 27 must be carried on the cargo tank.</p>
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*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

## TESTING AND MONITORING REQUIREMENTS

### 340-244-0244 Testing and Monitoring Requirements

(1) Each owner or operator of a GDF, at time of installation, as specified in OAR 340-244-0238(4), of a vapor balance system required under OAR 340-244-0242(1)(a), and every 3 years thereafter at a GDF with monthly throughput of 100,000 gallons of gasoline or more, must comply with the requirements in subsections (1)(a) and (b).

(a) The owner or operator of a GDF must demonstrate compliance with the leak rate and cracking pressure requirements, specified in item 1(g) of Table 2 of OAR 340-244-0242, for pressure-vacuum vent valves installed on gasoline storage tanks using the test methods identified in paragraph (1)(a)(A) or (B).

(A) California Air Resources Board Vapor Recovery Test Procedure TP-201.1E, — Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted Oct. 8, 2003 (incorporated by reference, see 40 CFR 63.14).

(B) Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 CFR 63.7(f).

(b) The owner or operator of a GDF must demonstrate compliance with the static pressure performance requirement, specified in item 1(h) of Table 2 of OAR 340-244-0242, for the vapor balance system by conducting a static pressure test on the gasoline storage tanks using the test methods identified in paragraph (1)(b)(A), (1)(b)(B), or (1)(b)(C).

(A) California Air Resources Board Vapor Recovery Test Procedure TP-201.3, — Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended March 17, 1999 (incorporated by reference, see 40 CFR 63.14).

(B) Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 CFR 63.7(f).

(C) Bay Area Air Quality Management District Source Test Procedure ST-30 — Static Pressure Integrity Test — Underground Storage Tanks, adopted Nov. 30, 1983, and amended Dec. 21, 1994 (incorporated by reference, see 40 CFR 63.14).

(2) Each owner or operator of a GDF, choosing, under the provisions of 40 CFR 63.6(g), to use a vapor balance system other than that described in Table 2 of OAR 340-244-0242, must demonstrate to DEQ or upon request by the EPA Administrator, the equivalency of their vapor balance system to that described in Table 2 of OAR 340-244-0242 using the procedures specified in subsections (2)(a) through (c).

(a) The owner or operator of a GDF must demonstrate initial compliance by conducting an initial performance test on the vapor balance system to demonstrate that the vapor balance system achieves 95 percent reduction using the California Air Resources Board Vapor Recovery Test Procedure TP-201.1, — Volumetric Efficiency for Phase I Vapor Recovery Systems, adopted April 12, 1996, and amended Feb. 1, 2001, and Oct. 8, 2003, incorporated by reference, see 40 CFR 63.14.

(b) The owner or operator of a GDF must, during the initial performance test required under subsection (2)(a), determine and document alternative acceptable values for the leak rate and cracking pressure requirements specified in item 1(g) of Table 2 of OAR 340-244-0242 and for the static pressure performance requirement in item 1(h) of Table 2 of OAR 340-244-0242.

(c) The owner or operator of a GDF must comply with the testing requirements specified in section (1).

(3) Conduct of performance tests. Performance tests must be conducted under such conditions as DEQ or the EPA Administrator specifies to the owner or operator of a GDF based on representative performance, i.e., performance based on normal operating conditions, of the affected source. Upon request by DEQ or the EPA Administrator, the owner or operator of a GDF must make available such records as may be necessary to determine the conditions of performance tests.

(4) Owners and operators of gasoline cargo tanks subject to the provisions of Table 3 of OAR 340-244-0242 must conduct annual certification testing according to the vapor tightness testing requirements found in 40 CFR 63.11092(f).

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

## NOTIFICATIONS, RECORDS, AND REPORTS

### **340-244-0246 Notifications**

(1) Each owner or operator of a GDF subject to the control requirements in OAR 340-244-0240(3) must comply with subsections (1)(a) through (c).

(a) The owner or operator of a GDF must submit an Initial Notification that the owner or operator is subject to the Gasoline Dispensing Facilities NESHAP by May 9, 2008, or at the time the owner or operator becomes subject to the control requirements in OAR 340-244-0240(3), unless the owner or operator meets the requirements in subsection (1)(c). If the owner or operator of a GDF is subject to the control requirements in OAR 340-244-0240(3) only because the owner or operator loads gasoline into fuel tanks other than those in motor vehicles, as defined on OAR 340-244-0030, the owner or operator must submit the initial notification by May 24, 2011. The Initial Notification must contain the information specified in paragraphs (1)(a)(A) through (D). The notification must be submitted to EPA's Region 10 Office and DEQ as specified in 40 CFR 63.13.

(A) The name and address of the owner and the operator.

(B) The address, i.e., physical location, of the GDF.

(C) The volume of gasoline loaded into all storage tanks or on the volume of gasoline dispensed from all storage tanks during the previous twelve months.

(D) A statement that the notification is being submitted in response to the Gasoline Dispensing Facilities NESHAP and identifying the requirements in OAR 340-244-0240(1) through (3) that apply to the owner or operator of a GDF.

(b) The owner or operator of a GDF must submit a Notification of Compliance Status to EPA's Region 10 Office and DEQ, as specified in 40 CFR 63.13, within 60 days of the applicable compliance date specified in OAR 340-244-0238, unless the owner or operator meets the requirements in subsection (1)(c). The Notification of Compliance Status must be signed by a responsible official who must certify its accuracy, must indicate whether the source has complied with the requirements of OAR 340-244-0232 through 340-244-0252, and must indicate whether the facility's monthly throughput is calculated based on the volume of gasoline loaded into all storage tanks or on the volume of gasoline dispensed from all storage tanks. If the facility is in compliance with the requirements of OAR 340-244-0232 through 340-244-0252 at the time the Initial Notification required under subsection (1)(a) of this rule is due, the Notification of Compliance Status may be submitted in lieu of the Initial Notification provided it contains the information required under subsection (1)(a).

(c) If, prior to Jan. 10, 2008, the owner or operator of a GDF is operating in compliance with an enforceable State rule or permit that requires submerged fill as specified in OAR 340-244-0240(3), the owner or operator is not required to submit an Initial Notification or a Notification of Compliance Status under subsection (1)(a) or (b).

(2) Each owner or operator of a GDF subject to the control requirements in OAR 340-244-0242 must comply with subsections (2)(a) through (e).

(a) The owner or operator of a GDF must submit an Initial Notification that the owner or operator is subject to the Gasoline Dispensing Facilities NESHAP by May 9, 2008, or at the time the owner or operator becomes subject to the control requirements in OAR 340-244-0242. If the owner or operator of a GDF is subject to the control requirements in OAR 340-244-0242 only because the owner or operator loads gasoline into fuel tanks other than those in motor vehicles, as defined on OAR 340-244-0030, the owner or operator must submit the initial notification by May 24, 2011. The Initial Notification must contain the information specified in paragraphs (2)(a)(A) through (C). The notification must be submitted to EPA's Region 10 Office and DEQ as specified in 40 CFR 63.13.

(A) The name and address of the owner and the operator.

(B) The address, i.e., physical location, of the GDF.

(C) The volume of gasoline loaded into all storage tanks or on the volume of gasoline dispensed from all storage tanks during the previous twelve months.

(D) A statement that the notification is being submitted in response to the Gasoline Dispensing Facilities NESHAP and identifying the requirements in OAR 340-244-0242 that apply to the owner or operator of a GDF.

(b) The owner or operator of a GDF must submit a Notification of Compliance Status to EPA's Regional 10 Office and DEQ, as specified in 40 CFR 63.13, in accordance with the schedule specified in 40 CFR 63.9(h). The Notification of Compliance Status must be signed by a responsible official who must certify its accuracy, must indicate whether the source has complied with the requirements of OAR 340-244-0232 through 340-244-0252, and must indicate whether the facility's monthly throughput is calculated based on the volume of gasoline loaded into all storage tanks or on the volume of gasoline dispensed from all storage tanks. If the facility is in compliance with the requirements OAR 340-244-0232 through 340-244-0252 at the time the Initial Notification required under subsection (2)(a) is due, the Notification of Compliance Status may be submitted in lieu of the Initial Notification provided it contains the information required under subsection (2)(a).

(c) If, prior to January 10, 2008, the owner or operator of a GDF satisfies the requirements in both paragraphs (2)(c)(A) and (B), the owner or operator is not required to submit an Initial Notification or a Notification of Compliance Status under subsections (2)(a) or (b).

(A) The owner or operator of a GDF operates a vapor balance system at the gasoline dispensing facility that meets the requirements of either subparagraphs (2)(c)(A)(i) or (ii).

(i) Achieves emissions reduction of at least 90 percent.

(ii) Operates using management practices at least as stringent as those in Table 2 of OAR 340-244-0242.

(B) The GDF is in compliance with an enforceable State rule or permit that contains requirements of subparagraphs (2)(c)(A)(i) and (ii).

(d) The owner or operator of a GDF must submit a Notification of Performance Test, as specified in 40 CFR 63.9(e), prior to initiating testing required by OAR 340-244-0244(1) and (2).

(e) The owner or operator of a GDF must submit additional notifications specified in 40 CFR 63.9, as applicable.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

### **340-244-0248 Recordkeeping Requirements**

(1) Each owner or operator of a GDF must keep the following records:

(a) Records of all tests performed under OAR 340-244-0244(1) and (2);

(b) Records related to the operation and maintenance of vapor balance equipment required under OAR 340-244-0242. Any vapor balance component defect must be logged and tracked by station personnel using forms provided by DEQ or a reasonable facsimile.

(c) Records of total throughput volume of gasoline, in gallons, for each calendar month.

(d) Records of permanent changes made at the GDF and vapor balance equipment which may affect emissions.

(2) Records required under section (1) must be kept for a period of 5 years and must be made available for inspection by DEQ and the EPA Administrator during the course of a site visit.

(3) Each owner or operator of a gasoline cargo tank subject to the management practices in Table 3 of OAR 340-244-0242 must keep records documenting vapor tightness testing for a period of 5

years. Documentation must include each of the items specified in 40 CFR 63.11094(b)(2)(i) through (viii). Records of vapor tightness testing must be retained as specified in either subsection (3)(a) or (b).

(a) The owner or operator of a gasoline cargo tank must keep all vapor tightness testing records with the cargo tank.

(b) As an alternative to keeping all records with the cargo tank, the owner or operator of a gasoline cargo tank may comply with the requirements of paragraphs (3)(a)(A) and (B).

(A) The owner or operator of a gasoline cargo tank may keep records of only the most recent vapor tightness test with the cargo tank and keep records for the previous 4 years at their office or another central location.

(B) Vapor tightness testing records that are kept at a location other than with the cargo tank must be instantly available (e.g., via e-mail or facsimile) to DEQ and the EPA Administrator during the course of a site visit or within a mutually agreeable time frame. Such records must be an exact duplicate image of the original paper copy record with certifying signatures.

(4) Each owner or operator of a GDF must keep records as specified in subsections (4)(a) and (b).

(a) Records of the occurrence and duration of each malfunction of operation, i.e., process equipment, or the air pollution control and monitoring equipment.

(b) Records of actions taken during periods of malfunction to minimize emissions in accordance with OAR 340-244-0239(1), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

### **340-244-0250 Reporting Requirements**

(1) Each owner or operator of a GDF subject to the management practices in OAR 340-244-0242 must report to DEQ and the EPA Administrator the results of all volumetric efficiency tests required under OAR 340-244-0244(1) and (2). Reports submitted under this rule must be submitted within 180 days of the completion of the performance testing.

(2) Annual report. Each owner or operator of a GDF that has monthly throughput of 10,000 gallons of gasoline or more must report, by February 15 of each year, the following information, as applicable.

(a) The total throughput volume of gasoline, in gallons, for each calendar month.

- (b) A summary of changes made at the facility on vapor recovery equipment which may affect emissions.
- (c) List of all major maintenance performed on pollution control devices.
- (d) The number, duration, and a brief description of each type of malfunction which occurred during the previous calendar year and which caused or may have caused any applicable emission limitation to be exceeded.
- (e) A description of actions taken by the owner or operator of a GDF during a malfunction to minimize emissions in accordance with OAR 340-244-0239(1), including actions taken to correct a malfunction.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

### **340-244-0252 General Provision Applicability**

**Table 3 to 40 CFR part 63 subpart CCCCCC** shows which parts of the General Provisions apply to the owner or operator.

*State effective: 4/16/2015; EPA approval: 10/27/2015, 80 FR 65655; EPA effective: 12/28/2015*

## **DIVISION 250**

### **GENERAL CONFORMITY**

#### **340-250-0010 Purpose**

- (1) The purpose of these rules is to implement Section 176(c) of the Clean Air Act (Act), (Public Law 88-206 as last amended by Public Law 101-549) and regulations under **40 CFR Part 51 subpart W (July 1, 1994)**, with respect to the conformity of general federal actions to the applicable implementation plan. Under those authorities no department, agency or instrumentality of the federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan. These rules set forth policy, criteria, and procedures for demonstrating and assuring conformity of such actions to the applicable implementation plan.
- (2) Under Section 176(c) of the Act and **40 CFR Part 51 subpart W (July 1, 1994)**, a federal agency must make a determination that a federal action conforms to the applicable SIP in accordance with this division before the action is taken.
- (3) Section (2) of this rule does not include federal actions where either:



(a) A National Environmental Policy Act (NEPA) analysis was completed as evidenced by a final environmental assessment (EA), environmental impact statement (EIS), or finding of no significant impact (FONSI) that was prepared prior to January 31, 1994; or

(b) the following has been completed:

(A) Prior to January 31, 1994, an EA was commenced or a contract was awarded to develop the specific environmental analysis;

(B) Sufficient environmental analysis is completed by March 15, 1994 so that the federal agency may determine that the federal action is in conformity with the specific requirements and the purposes of the applicable SIP pursuant to the agency's affirmative obligation under Section 176(c) of the Act; and

(C) A written determination of conformity under Section 176(c) of the Act has been made by the federal agency responsible for the federal action by March 15, 1994.

(4) Notwithstanding any provision of this division, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the NEPA, or the Act.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-250-0020 Applicability**

(1) Conformity determinations for federal actions in a nonattainment area or maintenance area related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53) must meet the procedures and criteria for transportation conformity as set forth in OAR 340 division 252, in lieu of the procedures set forth in this division.

(2) For federal actions in a nonattainment area or maintenance area not covered by section (1) of this rule, a conformity determination is required for each pollutant where the total of direct and indirect emissions caused by a federal action would equal or exceed any of the rates in sections (3)(a) and (b) of this rule.

(3) The following emission rates apply to federal actions pursuant to section (2) of this rule:

(a) For nonattainment areas: **Pollutant -- Tons per year:**

(A) Ozone (VOCs or NO<sub>x</sub>):

(i) Serious NAAs -- 50;

(ii) Severe NAAs -- 25;

- (iii) Extreme NAAs -- 10;
- (iv) Other ozone NAAs (Outside an ozone transport region) -- 100;
- (v) Marginal & moderate NAAs (Inside an ozone transport region):
  - (I) VOC -- 50;
  - (II) NO<sub>x</sub> -- 100.
- (B) Carbon Monoxide: All NAAs -- 100;
- (C) SO<sub>2</sub> or NO<sub>2</sub>: All NAAs -- 100;
- (D) PM<sub>10</sub>:
  - (i) Moderate NAAs -- 100;
  - (ii) Serious NAAs -- 70;
  - (iii) Pb: All NAAs -- 25.

(b) For maintenance areas: **Pollutant -- Tons per Year:**

- (A) Ozone (NO<sub>x</sub>), SO<sub>2</sub> or NO<sub>2</sub>: All maintenance areas -- 100;
- (B) Ozone (VOCs): Maintenance areas:
  - (i) Inside ozone transport region -- 50;
  - (ii) Outside ozone transport region -- 100.
- (C) Carbon Monoxide: All maintenance areas -- 100;
- (D) PM<sub>10</sub>: All maintenance areas -- 100;
- (E) Pb: All maintenance areas -- 25.

(4) The requirements of this division shall not apply to:

(a) Actions where the total of direct and indirect emissions are below the emissions levels specified in subsection (b) of this section.

(b) The following actions which would result in no emissions increase or an increase in emissions that is clearly de minimis:

(A) Judicial and legislative proceedings.

(B) Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted.

(C) Rulemaking and policy development and issuance.

(D) Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities.

(E) Civil and criminal enforcement activities, such as investigations, audits, inspections,

examinations, prosecutions, and the training or law enforcement personnel.

(F) Administrative actions such as personnel actions, organizational changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties and fees.

(G) The routine, recurring transportation of material and personnel.

(H) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups or for repair or overhaul.

(I) Maintenance dredging and debris disposal where no new depths are required, applicable permits are required, and disposal will be at an approved site.

(J) Actions, such as the following, with respect to existing structures, properties, facilities and lands where future activities conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands; for example, relocation of personnel, disposition of federally owned existing structures, properties, facilities and lands, rent subsidies, operation and maintenance cost subsidies, the exercise of receivership and conservatorship authority, assistance in purchasing structures, and the production of coins and currency.

(K) The granting of leases, licenses such as for exports and trade, permits and easements where activities conducted will be similar in scope and operation to activities currently being conducted.

(L) Planning, studies, and provision of technical assistance.

(M) Routine operation of facilities, mobile assets and equipment.

(N) Transfer of ownership, interests, and titles in land, facilities and real and personal properties, regardless of the form or method of the transfer.

(O) The designation of empowerment zones, enterprise communities, or viticultural areas.

(P) Actions by any of the federal banking agencies of the Federal Reserve Banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department,

agency or instrumentality of the United States.

(Q) Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank to effect monetary or exchange rate policy.

(R) Actions that implement a foreign affairs function of the United States.

(S) Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.

(T) Transfers of real property, including land, facilities, and related personal property from a federal entity to another federal entity and assignments of real property, including land, facilities, and related personal property from a federal entity to another federal entity for subsequent deeding to eligible applicants.

(U) Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States.

(c) The following actions where the emissions are not reasonably foreseeable:

(A) Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level.

(B) Electric power marketing activities that involve the acquisition, sale and transmission of electric energy.

(d) Actions in nonattainment areas or maintenance areas which implement a decision to conduct or carry out a conforming program such as prescribed burning actions which are consistent with a conforming land management plan.

(5) Notwithstanding the other requirements of this division, a conformity determination is not required for the following federal actions (or portion thereof):

(a) The portion of an action that includes major new or modified stationary sources that require a permit under the new source review (NSR) program (Section 173 of the Act) or the prevention of

significant deterioration (PSD) program (Title I, part C of the Act).

(b) Actions in response to emergencies or natural disasters such as hurricanes, earthquakes, etc., which are commenced on the order of hours or days after the emergency or disaster and, if applicable, which meet the requirements of section (6) of this rule.

(c) Research, investigations, studies, demonstrations, or training, other than those exempted under section (4)(b) of this rule, where no environmental detriment is incurred or the particular action furthers air quality research, as determined by the state agency primarily responsible for the applicable SIP.

(d) Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g. hush houses for aircraft engines and scrubbers for air emissions).

(e) Direct emissions from remedial and removal actions carried out under the CERCLA and associated regulations to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other regulation under the provisions of CERCLA and applicable regulations issued under CERCLA.

(6) Federal actions which are part of a continuing response to an emergency or disaster under section (5)(b) of this rule and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under section (5)(b) of this rule are exempt from the requirements of this division only if:

(a) The federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional 6 months, it is impractical to prepare the conformity analyses which would otherwise be required and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests and foreign policy commitments; or

(b) For actions which are to be taken after those actions covered by subsection (a) of this section, the federal agency makes a new determination as provided in subsection (a) of this section.

(7) Notwithstanding other requirements of this division, actions specified by individual federal agencies that have met the criteria set forth in section (8) of this rule and the procedures set forth in section (9) of this rule are presumed to conform, except as provided in section (11) of this rule.

(8) The federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in either subsection (a) or (b) of this section:

(a) The federal agency must clearly demonstrate using methods consistent with this rule that the total of direct and indirect emissions from the type of activities which would be presumed to conform would not:

(A) Cause or contribute to any new violation of any standard in any area;

(B) Interfere with provisions in the applicable SIP for maintenance of any standard;

(C) Increase the frequency or severity of any existing violation of any standard in any area;

(D) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(i) A demonstration of reasonable further progress;

(ii) A demonstration of attainment; or

(iii) A maintenance plan; or

(b) The federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emissions rates for a conformity determination that are established in section (3) of this rule, based, for example, on similar actions taken over recent years.

(9) In addition to meeting the criteria for establishing exemptions set forth in section (8) of this rule, the following procedures must also be complied with to presume that activities will conform:

(a) The federal agency must identify through publication in the Federal Register its list of proposed activities that are presumed to conform and the basis for the presumptions;

(b) The federal agency must notify the appropriate EPA Regional Office(s), state and local air quality agencies and, where applicable, the agency designated under section 174 of the Act and the MPO and provide at least 30 days for the public to comment on the list of proposed activities presumed to conform;

(c) The federal agency must document its response to all the comments received and make the comments, response, and final list of activities available to the public upon request; and

(d) The federal agency must publish the final list of such activities in the Federal Register.

(10) Notwithstanding the other requirements of this division, when the total of direct and indirect emissions of any pollutant from a federal action does not equal or exceed the rates specified in section (3) of this rule, but represents 10 percent or more of a non-attainment or maintenance area's total emissions of that pollutant, the action is defined as a regionally significant action and the requirements of 340-250-0010, and OAR 340-250-0050 through 340-250-0100 shall apply for the federal action.

(11) Where an action otherwise presumed to conform under section (7) of this rule is a regionally significant action or does not in fact meet one of the criteria in section (8)(a) of this rule, that action shall not be presumed to conform and the requirements of OAR 340-250-0020 and 340-250-0050 through 340-250-0100 shall apply for the federal action.

(12) The provisions of this division shall apply in all non-attainment/maintenance areas.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-250-0030 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Affected federal land manager" means the federal agency or the federal official charged with direct responsibility for management of an area designated as Class I under the Act that is located within 100 km of the proposed federal action.

(2) "Applicable implementation plan" or "applicable SIP" means the portion (or portions) of the applicable SIP or most recent revision thereof, which has been approved under Section 110 of the Act, or promulgated under Section 110(c) of the Act (Federal implementation plan), or promulgated under Section 301(d) of the Act which implements the relevant requirements of the Act.

(3) "Areawide air quality modeling analysis" means an assessment on a scale that includes the entire nonattainment area or maintenance area which uses an air quality dispersion model to determine the effects of emissions on air quality.

(4) "Cause or contribute to any new violation of any standard in any area" means a federal action that:

(a) Causes a new violation of a NAAQS at a location in a nonattainment area or maintenance

area which would otherwise not be in violation of the standard during the future period in question if the federal action were not taken; or

(b) Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment area or maintenance area in a manner that would increase the frequency or severity of the new violation.

(5) "Caused by", as used in the terms "direct emissions" and "indirect emissions," means emissions that would not otherwise occur in the absence of the federal action.

(6) "Criteria pollutant" means any pollutant for which there is established a NAAQS at **40 CFR part 50 (July 1, 1994)**.

(7) "Direct emissions" means those emissions of a criteria pollutant or precursors of a criteria pollutant that are caused or initiated by the federal action and occur at the same time and place as the action.

(8) "Emergency" means a situation where extremely quick action on the part of the Federal agencies involved is needed and where the timing of such federal activities makes it impractical to meet the requirements of this division, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts, and military mobilizations.

(9) "Emissions budgets" means those portions of the applicable SIP's projected emissions inventories that describe levels of emissions (mobile, stationary, area, etc.) that provide for meeting reasonable further progress milestones, attainment, or maintenance for any criteria pollutant or precursors of a criteria pollutant.

(10) "Emissions offsets", for purposes of OAR 340-250-0080, means emissions reductions which are quantifiable, consistent with OAR 340 division 268 and OAR 340-224-0090, and the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other SIP provisions, enforceable at both the state and federal levels, and permanent within the timeframe specified by the program.

(11) "Emissions that a federal agency has a continuing program responsibility for" means emissions that are specifically caused by an agency carrying out its authorities, and does not include emissions that occur due to subsequent activities, unless such activities are required by the federal agency. Where an agency, in performing its normal program responsibilities, takes actions itself or imposes conditions that result in air pollutant emissions by a nonfederal entity taking subsequent actions, such emissions are covered by the meaning of a continuing program responsibility.



(12) "EPA" means the United States Environmental Protection Agency.

(13) "Federal action" means any activity engaged in by a department, agency, or instrumentality of the federal government, or any activity that a department, agency or instrumentality of the federal government supports in any way, provides financial assistance for licenses, permits, or approves under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). Where the federal action is a permit, license, or other approval for some aspect of a nonfederal undertaking, the relevant activity is the part, portion, or phase of the nonfederal undertaking that requires the federal permit, license, or approval.

(14) "Federal agency" means a federal department, agency, or instrumentality of the federal government.

(15) "Increase the frequency or severity of any existing violation of any standard in any area" means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed or would otherwise exist during the future period in question, if the project were not implemented.

(16) "Indirect emissions" means those emissions of a criteria pollutant or precursors of a criteria pollutant that:

(a) Are caused by the federal action, but may occur later in time or may be farther removed in distance from the action itself but are still reasonably foreseeable; and

(b) The federal agency can practicably control and will maintain control over due to a continuing program responsibility of the federal agency.

(17) "Local air quality modeling analysis" means an assessment of localized impacts on a scale smaller than the entire nonattainment area or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, which uses an air quality dispersion model to determine the effects of emissions on air quality.

(18) "Maintenance area" means an area with a maintenance plan approved under Section 175A of the Act.

(19) "Maintenance plan" means a revision to the applicable SIP, meeting the requirements of Section 175A of the Act.

(20) "Metropolitan Planning Organization" or "MPO" means that organization designated as

being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607.

(21) "Milestone" has the meaning given in Sections 182(g)(1) and 189(c)(1) of the Act.

(22) "National ambient air quality standards" or "NAAQS" means those standards established pursuant to Section 109 of the Act and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO<sub>2</sub>), ozone, particulate matter (PM<sub>10</sub>, PM<sub>2.5</sub>), and sulfur dioxide (SO<sub>2</sub>).

(23) "NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

(24) "Nonattainment area" means an area designated as nonattainment under Section 107 of the Act and described in **40 CFR part 81 (July 1, 1994)**.

(25) "Precursors of a criteria pollutant" means:

(a) For ozone, nitrogen oxides (NO<sub>x</sub>), unless an area is exempted from NO<sub>x</sub> requirements under Section 182(f) of the Act, and volatile organic compounds (VOC); and

(b) For PM<sub>10</sub>, those pollutants described in the PM<sub>10</sub> nonattainment area applicable SIP as significant contributors to the PM<sub>10</sub> levels.

(26) "Reasonably foreseeable emissions" means projected future indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known and the emissions are quantifiable, as described and documented by the federal agency based on its own information and after reviewing any information presented to the federal agency.

(27) "Regional water or wastewater projects" include construction, operation, and maintenance of water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment area or maintenance area.

(28) "Regionally significant action" means a federal action for which the direct emissions and indirect emissions of any pollutant represent 10 percent or more of a nonattainment area's or maintenance area's emissions inventory for that pollutant.

(29) "Total of direct and indirect emissions" means the sum of direct emissions and indirect emissions increases and decreases caused by the federal action; i.e., the "net" emissions considering all direct emissions and indirect emissions. The portion of emissions which are exempt or presumed to conform under OAR 340-250-0020(4), (5), (6) or (7) are not included in

the "total of direct and indirect emissions."

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

*State effective: 10/16/2015; EPA approval: 5/24/2018, 83 FR 24034; EPA effective: 6/25/2018*

### **340-250-0040 Conformity Analysis**

Any federal department, agency, or instrumentality of the federal government taking an action subject to OAR 340-250-0020(3) must make its own conformity determination consistent with the requirements of this division. In making its conformity determination, a federal agency must consider comments from any interested parties. Where multiple federal agencies have jurisdiction for various aspects of a project, a federal agency may choose to adopt the analysis of another federal agency or develop its own analysis in order to make its conformity determination.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-250-0050 Reporting Requirements**

(1) A federal agency making a conformity determination under OAR 340-250-0080 must provide to the appropriate EPA Regional Office(s), state and local air quality agencies and, where applicable, affected federal land managers, the agency designated under Section 174 of the Act and the MPO a 30 day notice which describes the proposed action and the federal agency's draft conformity determination on the action.

(2) A federal agency must notify the appropriate EPA Regional Office(s), state and local air quality agencies and, where applicable, affected land managers, the agency designated under Section 174 of the Clean Air Act and the MPO within 30 days after making a final conformity determination under OAR 340-250-0080.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-250-0060 Public Participation**

(1) Upon request by any person regarding a specific federal action, a federal agency must make available for review its draft conformity determination under OAR 340-250-0080 with supporting material which describe the analytical methods, assumptions and conclusions relied upon in making the applicability analysis and draft conformity determination.

(2) A federal agency must make public its draft conformity determination under 340-250-0080 by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.

(3) A federal agency must document its response to all the comments received on its draft conformity determination under OAR 340-250-0080 and make the comments and responses available, upon request by any person regarding a specific federal action, within 30 days of the final conformity determination.

(4) A federal agency must make public its final conformity determination under 340-250-0080 for a federal action by placing notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-250-0070 Frequency of Conformity Determinations**

(1) The conformity status of a federal action automatically lapses 5 years from the date a final conformity determination is reported under OAR 340-250-0050, unless the federal action has been completed or a continuous program has been commenced to implement that federal action within a reasonable time.

(2) Ongoing federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as the emissions associated with such activities are within the scope of the final conformity determination reported under OAR 340-250-0050.

(3) If, after the conformity determination is made, the federal action is changed so that there is an increase in the total of direct and indirect emissions above the levels in OAR 340-250-0020(4), a new conformity determination is required.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-250-0080 Criteria for Determining Conformity of General Federal Actions**

(1) An action required under OAR 340-250-0020 to have a conformity determination for a specific pollutant, will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in OAR 340-250-0020(3), or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of section (3) of this rule, and meets any of the following requirements:

(a) For any criteria pollutant, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration;

(b) For ozone or nitrogen dioxide, the total of direct and indirect emissions from the action are fully offset within the same nonattainment area or maintenance area through a revision to the applicable SIP or a similarly enforceable measure that effects emission reductions so that there is no net increase in emissions of that pollutant;

(c) For any criteria pollutant, except ozone and nitrogen dioxide, the total of direct and indirect emissions from the action meet the requirements:

(A) Specified in section (2) of this rule, based on areawide air quality modeling analysis and local air quality modeling analysis; or

(B) Meet the requirements of subsection (e) of this section and, for local air quality modeling analysis, the requirements of section (2) of this rule.

(d) For CO or PM<sub>10</sub>:

(A) Where the Department or local air quality agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in section (2) of this rule, based on local air quality modeling analysis; or

(B) Where the Department or local air quality agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in section (2) of this rule, based on areawide modeling, or meet the requirements of subsection (e) of this section.

(e) For ozone or nitrogen dioxide, and for purposes of subsections (c)(B) and (d)(B) of this section, each portion of the action or the action as a whole meets any of the following requirements:

(A) Where EPA has approved a revision to an area's attainment or maintenance demonstration after 1990 and the state makes a determination as provided in subparagraph (i) of this paragraph or where the state makes a commitment as provided in subparagraph (ii) of this paragraph:

(i) The total of direct and indirect emissions from the action, or portion thereof, is determined and documented by the state agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area or maintenance area, would not exceed the emissions budgets specified in the applicable SIP;

(ii) The total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the state agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area or maintenance area, would not exceed the emissions budget specified in the applicable SIP and the State Governor or the Governor's designee for SIP actions makes a written commitment to EPA which includes the following:

(I) A specific schedule for adoption and submittal of a revision to the applicable SIP which would achieve the needed emission reductions prior to the time emissions from the federal action would occur;

(II) Identification of specific measures for incorporation into the applicable SIP which would result in a level of emissions which, together with all other emissions in the nonattainment area or maintenance area, would not exceed any emissions budget specified in the applicable SIP;

(III) A demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the federal action, and that local authority to implement additional requirements has been fully pursued;

(IV) A determination that the responsible federal agencies have required all reasonable mitigation measures associated with their action; and

(V) Written documentation including all air quality analyses supporting the conformity determination.

(iii) Where a federal agency made a conformity determination based on a state commitment under subparagraph (ii) of this paragraph such a state commitment is automatically deemed a call for a SIP revision by EPA under Section 110(k)(5) of the Act, effective on the date of the federal conformity determination and requiring response within 18 months or any shorter time within which the state commits to revise the applicable SIP.

(B) The action, or portion thereof, as determined by the MPO, is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP under **40 CFR part 51, subpart T (July 1,1994)** or **40 CFR part 93, subpart A (July 1, 1994)**, and OAR 340 division 252.

(C) The action, or portion thereof, fully offsets its emissions within the same nonattainment area or maintenance area through a revision to the applicable SIP or an equally enforceable measure that effects emission reductions equal to or greater than the total of direct and indirect emissions

from the action so that there is no net increase in emissions of that pollutant;

(D) Where EPA has not approved a revision to the relevant SIP attainment or maintenance demonstration since 1990, the total direct and indirect emissions from the action for the future years (described in OAR 340-250-0090(4)) do not increase emissions with respect to the baseline emissions:

(i) The baseline emissions reflect the historical activity levels that occurred in the geographic area affected by the proposed federal action during:

(I) Calendar year 1990;

(II) The calendar year that is the basis for the classification, or, where the classification is based on multiple years, the most representative year, if a classification is promulgated in **40 CFR part 81 (July 1, 1994)**; or

(III) The year of the baseline inventory in the PM<sub>10</sub> applicable SIP.

(ii) The baseline emissions are the total of direct and indirect emissions calculated for the future years (described in OAR 340-250-0090(4)) using the historic activity levels (described in subparagraph (i) of this paragraph) and appropriate emission factors for the future years; or

(E) Where the action involves regional water or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

(2) The areawide air quality modeling analysis or local air quality modeling analysis must:

(a) Meet the requirements in OAR 340-250-0090; and

(b) Show that the action does not:

(A) Cause or contribute to any new violation of any standard in any area;

(B) Increase the frequency or severity of any existing violation of any standard in any area.

(3) Notwithstanding any other requirements of this rule, an action subject to this division may not be determined to conform to the applicable SIP unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance

demonstration, prohibitions, numerical emission limits, and work practice requirements, and such action is otherwise in compliance with all relevant requirements of the applicable SIP.

(4) Any analyses required under this rule must be completed, and any mitigation requirements necessary for a finding of conformity must be identified in compliance with OAR 340-250-0100, before the determination of conformity is made.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-250-0090 Procedures for Conformity Determinations of General Federal Actions**

(1) The analyses required under OAR 340-250-0080 and 340-250-0090 must be based on the latest planning assumptions.

(a) All planning assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently approved by the MPO, or other agency authorized to make such estimates, where available.

(b) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or other agency authorized to make such estimates for the urban area.

(2) The analyses required under OAR 340-250-0080 and 340-250-0090 must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate and written approval of the EPA Regional Administrator is obtained for any modification of substitution, they may be modified or another technique substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program.

(a) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in that state must be used for the conformity analysis as specified in subsections (A) and (B) of this section:

(A) The EPA must publish in the Federal Register a notice of availability of any new motor vehicle emissions model; and

(B) A grace period of three months shall apply during which the motor vehicle emissions model previously specified by EPA as the most current version may be used. Conformity analyses for which the analysis was begun during the grace period or no more than 3 years before the federal Register notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA.



(b) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "**Compilation of Air Pollutant Emission Factors (AP-42)**" must be used for conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

(3) The air quality modeling analyses required under OAR 340-250-0080 and 340-250-0090 must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "**Guideline on Air Quality Models (Revised)**"(1986), **including supplements (EPA publication no. 450/2-78-027R)**, unless:

(a) The guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program; and

(b) Written approval of the EPA Regional Administrator is obtained for any modification or substitution.

(4) The analyses required under OAR 340-250-0080 and 340-250-0090 must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

(a) The Act mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;

(b) The year during which the total of direct and indirect emissions from the action for each pollutant is expected to be the greatest on an annual basis; and

(c) Any year for which the applicable SIP specifies an emissions budget.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-250-0100 Mitigation of Air Quality Impacts**

(1) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.

(2) Prior to determining that a federal action is in conformity, the federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to implement any mitigation measures which are identified as conditions for making conformity determinations. Such written comments shall describe the mitigation measures and

the nature of the commitments in a manner consistent with section (1) of this rule.

(3) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

(4) In instances where the federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the federal agency must be conditioned on the other entity meeting the mitigation measures set forth in the conformity determination, as provided in section (1) of this rule.

(5) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures is subject to the reporting requirements of OAR 340-250-0050 and the public participation requirements of OAR 340-250-0060.

(6) Written commitments to mitigation measures must be obtained prior to a positive conformity determination and all such commitments must be fulfilled.

(7) After the Department revises its SIP to adopt its general conformity rules and EPA approves that SIP revision, any agreements, necessary for a conformity determination will be both state and federally enforceable. Enforceability through the applicable SIP will apply to all persons who agree to mitigate direct emissions and indirect emissions associated with a federal action for a conformity determination.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

## **DIVISION 252**

### **TRANSPORTATION CONFORMITY**

#### **340-252-0010 Purpose**

The purpose of this division is to implement section 176(c) of the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], and the related requirements of **23 U.S.C. 109(j)**, with respect to the conformity of transportation plans, programs, and projects which are developed, funded, or approved by the United States Department of Transportation (DOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). This division sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to section 110 and Part D of the CAA.

### **340-252-0030 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. Terms used but not defined in this rule shall have the meaning given them by the CAA, Titles 23 and 49 U.S.C., other Environmental Protection Agency regulations, or other DOT regulations, in that order of priority.

(1) "Air pollution control agency" has the meaning given that term in section 176(c)(7)(E) of the FCAA.

(2) "Consult" or "consultation" means that the party or parties responsible for consultation as established in OAR 340-252-0060 shall provide all appropriate information necessary to making a conformity determination and, prior to making a conformity determination, except with respect to a transportation plan or TIP revision which merely adds or deletes exempt projects, consider the views of such parties and provide a timely, written response to those views. Such views and written responses shall be included in the record of decision or action.

(3) "DEQ" means the Department of Environmental Quality.

(4) "ODOT" means the Oregon Department of Transportation.

(5) "Policy level official" means elected officials, and management and senior staff level employees.

(6) "Regional air authority" means a regional air authority established pursuant to ORS 468A.105.

(7) "Scope" means "design scope" as defined in 40 CFR 93.101 when the term follows "design concept and..."

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### **340-252-0060 Consultation**

(1) General:

(a) This section provides procedures for interagency consultation (Federal, State, and local) and resolution of conflicts. Consultation shall be undertaken by MPOs, the Oregon Department of Transportation, affected local jurisdictions, and United States Department of Transportation

before making conformity determinations and in developing regional transportation plans and transportation improvement programs. Consultation shall be undertaken by a lead planning agency, the Department of Environmental Quality, the Lane Regional Air Protection Agency (for actions in Lane County which are subject to this division), or any other regional air authority, and United States Environmental Protection Agency in developing applicable implementation plans.

(b) The lead planning agency, the Department of Environmental Quality, the Lane Regional Air Protection Agency for Lane County, or any other regional air authority, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development, amendment or revision (except administrative amendments or revisions) of an applicable implementation plan including, the motor vehicle emissions budget. The MPO, Oregon Department of Transportation, or any other party responsible for making conformity determinations pursuant to this rule, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development of the transportation plan, the TIP, and any determinations of conformity under this rule. The project sponsor shall be responsible for assuring the conformity of FHWA/FTA projects and regionally significant projects approved or adopted by a recipient of funds under title 23.

(c) In addition to the lead agencies identified in subsection (b), other agencies entitled to participate in any interagency consultation process under OAR 340-252-0060 include the Oregon Department of Transportation, both headquarters and each affected regional or district office, each affected MPO, the Federal Highway Administration regional office in Portland and State division office in Salem, the Federal Transit Administration regional office, the Department of Environmental Quality, both headquarters and each affected regional office, any affected regional air authority, the United States Environmental Protection Agency, both headquarters and each affected regional or district office, and any other organization within the State responsible under State law for developing, submitting or implementing transportation-related provisions of an implementation plan, any local transit agency, and any city or county transportation or air quality agency.

(d) Specific roles and responsibilities of various participants in the interagency consultation process shall be as follows:

(A) The lead planning agency, the Department of Environmental Quality, the Lane Regional Air Protection Agency, or any other regional air authority, shall be responsible for developing:

(i) Emissions inventories;

(ii) Emissions budgets;

- (iii) Attainment and maintenance demonstrations;
- (iv) Control strategy implementation plan revisions; and
- (v) Updated motor vehicle emissions factors.

(B) Unless otherwise agreed to in a Memorandum of Understanding between the affected jurisdictions and the Department of Environmental Quality, the Department of Environmental Quality shall be responsible for developing the transportation control measures to be included in SIPs in nonattainment or maintenance areas, except Lane County.

(C) The Lane Regional Air Protection Agency shall be responsible for developing transportation control measures for PM<sub>10</sub> in Lane County.

(D) The MPO shall be responsible for:

- (i) Developing transportation plans and TIPs, and making corresponding conformity determinations;
- (ii) Making conformity determinations for the entire nonattainment or maintenance area including areas beyond the boundaries of the MPO where no agreement is in effect as required by 23 CFR § 450.310(f);
- (iii) Monitoring regionally significant projects;
- (iv) Developing and evaluating TCMs in nonattainment and/or maintenance areas;
- (v) Providing technical and policy input on emissions budgets;
- (vi) Performing transportation modeling, regional emissions analyses and documenting timely implementation of TCMs as required for determining conformity;
- (vii) Distributing draft and final project environmental documents which have been prepared by the MPO to other agencies.

(E) The Oregon Department of Transportation shall be responsible for:

- (i) Providing technical input on proposed revisions to motor vehicle emissions factors;
- (ii) Distributing draft and final project environmental documents prepared by ODOT to other agencies;
- (iii) Convening air quality technical review meetings on specific projects when requested by other agencies or, as needed;

(iv) Convening interagency consultation meetings required for purposes of making conformity determinations in non-metropolitan nonattainment or maintenance areas;

(v) Making conformity determinations in non-metropolitan nonattainment or maintenance area.

(F) The project sponsor shall be responsible for;

(i) Assuring project level conformity including, where required by this rule, localized air quality analysis;

(ii) Distributing draft and final project environmental documents prepared by the project sponsor to other agencies.

(G) The Federal Highway Administration and Federal Transit Administration shall be responsible for assuring timely action on final findings of conformity, after consultation with other agencies as provided in this section and 40 CFR § 93.105.

(H) United State Environmental Protection Agency shall be responsible for:

(i) Reviewing and approving updated motor vehicle emissions factors; and

(ii) Providing guidance on conformity criteria and procedures to agencies in interagency consultation.

(I) Any agency, by mutual agreement with another agency, may take on a role or responsibility assigned to that other agency under this rule.

(J) In metropolitan areas, any state or local transportation agency, or transit agency shall disclose regionally significant projects to the MPO standing committee established under OAR 340-252-0060(2)(b) in a timely manner.

(i) Such disclosure shall be made not later than the first occasion on which any of the following actions is sought: adoption or amendment of a local jurisdiction's transportation system plan to include a proposed project, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract for final design or construction of the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with final design, permitting or construction of the project, or any approval needed for any facility that is dependent on the completion of the regionally significant project.

(ii) To help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose to the MPO annually on or before July 1.

(iii) In the case of any regionally significant project that has not been disclosed to the MPO and

other interested agencies participating in the consultation process in a timely manner, such regionally significant project shall be deemed not to be included in the regional emissions analysis supporting the currently conforming TIP's conformity determination and not to be consistent with the motor vehicle emissions budget in the applicable implementation plan, for the purposes of 40 CFR §93.121.

(K) In non-metropolitan areas, any state or local transportation agency, or transit agency shall disclose regionally significant projects to Oregon Department of Transportation in a timely manner.

(i) Such disclosure shall be made no later than the first occasion on which any of the following actions is sought: adoption or amendment of a local jurisdiction's transportation system plan to include a proposed project, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract for final design or construction of the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with final design, permitting or construction of the project, or any approval needed for any facility that is dependent on the completion of the regionally significant project.

(ii) To help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose to Oregon Department of Transportation as requested. Requests for disclosure shall be made in writing to any affected state or local transportation or transit agency.

(2) Interagency consultation: specific processes.

(a) State Implementation Plan development.

(A) It shall be the affirmative responsibility of the Department of Environmental Quality, the Lane Regional Air Protection Agency, or any other regional air authority with the responsibility for preparing or revising a State Implementation Plan, except for administrative amendments or revisions, to initiate the consultation process by notifying other participants and convening a working group made up of representatives of each affected agency in the consultation process including representatives of the public, as appropriate. Such working group shall be chaired by a representative of the convening agency, unless the group by consensus selects another chair. The working group shall make decisions by majority vote. Such working group shall begin consultation meetings early in the process of decision on the final SIP, and shall review drafts of the final SIP, the emissions budget, and major supporting documents, or appoint the representatives or agencies that will review such drafts. Such working group shall be made up of policy level officials, and shall be assisted by such technical committees or technical engineering, planning, public works, air quality, and administrative staff from the member agencies as the working group deems appropriate. The chair, or his/her designee, shall set the agenda for meetings and assure that all relevant documents and information are supplied to all

participants in the consultation process in a timely manner.

(B) Regular consultation on development or amendment of an implementation plan shall include meetings of the working group at regularly scheduled intervals, no less frequently than quarterly. In addition, technical meetings shall be convened as necessary.

(C) Each lead agency with the responsibility for preparing the SIP subject to the interagency consultation process, shall confer through the working group process with all other agencies identified under subsection (1)(c) of this rule with an interest in the document to be developed, provide all appropriate information to those agencies needed for meaningful input, and, consider the views of each such agency and respond to substantive comments in a timely, substantive written manner prior to making a recommendation to the Environmental Quality Commission for a final decision on such document. Such views and written response shall be made part of the record of any decision or action.

(D) The working group may appoint subcommittees to address specific issues pertaining to SIP development. Any recommendations of a subcommittee shall be considered by the working group.

(E) Meetings of the working group shall be open to the public. The agency with the responsibility of preparing the SIP shall provide timely written notification of working group meetings to those members of the public who have requested such notification. In addition, reasonable efforts shall be made to identify and provide timely written notification to interested parties.

(b) Metropolitan Areas. There shall be a standing committee for purposes of consultation required under this rule by an MPO. The standing committee shall advise the MPO. The committee shall include representatives from state and regional air quality planning agencies and State and local transportation and transit agencies. The standing committee shall consult with the United States Environmental Protection Agency and the United States Department of Transportation. If not designated by committee bylaws, the standing committee shall select its chair by majority vote.

(A) For MPOs designated prior to the effective date of this rule, the following standing committees are designated for purposes of interagency consultation required by this rule:

(i) Lane Council of Governments: Transportation Planning Committee;

(ii) Salem-Keizer Area Transportation Study: Technical Advisory Committee;

(iii) Metro: Transportation Policy Alternatives Committee;

(iv) Rogue Valley Council of Governments: Technical Advisory Committee.



(B) Any MPO designated an air quality nonattainment or maintenance area subsequent to the effective date of this rule shall establish a standing committee to meet the requirements of this rule.

(C) The standing committee shall hold meetings at least quarterly. The standing committee shall make decisions by majority vote.

(D) The standing committee shall be responsible for consultation on:

(i) Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis, in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel;

(ii) Determining whether a project's design concept and scope have changed significantly since the plan and TIP conformity determination;

(iii) Evaluating whether projects otherwise exempted from meeting the requirements of this rule should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason;

(iv) Making a determination, as required by 40 CFR § 93.113 whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs; this consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

(v) Identifying, as required by 40 CFR § 93.123, projects located at sites in PM10 or PM2.5 nonattainment or maintenance areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM10 or PM2.5 hot-spot analysis;

(vi) Forecasting vehicle miles traveled, and any amendments thereto;

(vii) Making a determination, as required by 40 CFR § 93.121, whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, and whether the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility;

(viii) Determining whether the project sponsor or MPO has demonstrated that the requirements of 40 CFR § 93.116, 40 CFR § 93.118, and 40 CFR § 93.119 are satisfied without a particular mitigation or control measure, as provided in 40 CFR § 93.125;

(ix) Evaluating events which will trigger new conformity determinations in addition to those triggering events established in 40 CFR § 93.104;

(x) Consulting on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment or maintenance areas or air basins;

(xi) Assuring that plans for construction of regionally significant projects which are not FHWA/FTA projects, including projects for which alternative locations, design concept and scope, or the no-build option are still being considered, are disclosed to the MPO on a regular basis, and assuring that any changes to those plans are immediately disclosed;

(xii) The design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g., household/travel transportation surveys);

(xiii) Development of transportation improvement programs;

(xiv) Development of regional transportation plans;

(xv) Establishing appropriate public participation opportunities for project-level conformity determinations required by this division, in the manner specified by 23 CFR Part 450; and

(xvi) Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in 40 CFR § 93.126 and 40 CFR § 93.127.

(E) The chair of each standing committee, or his/her designee, shall set the agenda for all meetings. The chair of each standing committee shall assure that all agendas, and relevant documents and information are supplied to all participants in the consultation process in a timely manner prior to standing committee meetings which address any issues described in paragraph (2)(b)(D) of this rule.

(F) Such standing committees shall begin consultation meetings early in the process of decision on the final document, and shall review all drafts of the final document and major supporting documents. The standing committee shall consult with EPA and USDOT.

(G) The MPO shall confer with the standing committee and shall consult with all other agencies identified under subsection (1)(c) of this rule with an interest in the document to be developed, shall provide all appropriate information to those agencies needed for meaningful input, and consider the views of each such agency. The MPO shall provide draft conformity determinations to standing committee members and shall allow a minimum of 30 days for standing committee

members to comment. The 30 day comment period for standing committee members may occur concurrently with the public comment period. The MPO shall respond to substantive comments raised by a standing committee member in a timely, substantive written manner at least 7 days prior to any final decision by the MPO on such document. Such views and written response shall be made part of the record of any decision or action.

(H) The standing committee may, where appropriate, appoint a subcommittee to develop recommendations for consideration by the full committee.

(I) Meetings of the standing committee shall be open to the public. The MPO shall provide timely written notification of standing committee meetings to those members of the public who have requested such notification. In addition, reasonable efforts shall be made to identify and provide timely written notification to interested parties.

(c) An MPO, or any other party responsible for developing Transportation Control Measures, shall consult with affected parties listed in subsection (1)(c) in developing TCMs for inclusion in an applicable implementation plan.

(d) Non-metropolitan areas.

(A) In non-metropolitan areas the following interagency consultation procedures shall apply, unless otherwise agreed to by the affected parties in a Memorandum of Understanding, or specified in an applicable implementation plan:

(B) In each non-metropolitan nonattainment or maintenance area the Oregon Department of Transportation shall facilitate a meeting of the affected agencies listed in subsection (1)(c) of this rule prior to making conformity determinations to:

(i) Determine which minor arterials or other transportation projects shall be considered "regionally significant";

(ii) Determine which projects have undergone significant changes in design concept and scope since the regional emissions analysis was performed;

(iii) Evaluate whether projects otherwise exempted from meeting the requirements of this rule should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason;

(iv) Make a determination, as required by 40 CFR § 93.113, whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs; this consultation process shall also consider whether delays in

TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

(v) Identify, as required by 40 CFR § 93.123 projects located at sites in PM10 or PM2.5 nonattainment or maintenance areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM10 or PM2.5 hot-spot analysis;

(vi) Confer on the forecast of vehicle miles traveled, and any amendments thereto;

(vii) Determine whether the project sponsor has demonstrated that the requirements of 40 CFR § 93.116, 40 CFR § 93.118, and 40 CFR § 93.119 are satisfied without a particular mitigation or control measure, as provided in;

(viii) Evaluate events which will trigger new conformity determinations in addition to those triggering events established in 40 CFR § 93.104;

(ix) Assure that plans for construction of regionally significant projects which are not Federal Highway Administration/Federal Transit Administration projects, including projects for which alternative locations, design concept and scope, or the no-build option are still being considered, are disclosed on a regular basis, and assuring that any changes to those plans are immediately disclosed.

(x) Confer on the design, schedule, and funding of research and data collection efforts and transportation model development (e.g., household/travel transportation surveys).

(xi) Establish appropriate public participation opportunities for project-level conformity determinations required by this rule in the manner specified by 23 CFR Part 450;

(xii) Provide notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in 40 CFR § 93.126 and 40 CFR § 93.127; and

(xiii) Choose conformity tests and methodologies for non-metropolitan nonattainment and maintenance areas, as required by 40 CFR § 93.109.

(C) The Oregon Department of Transportation shall consult with all other agencies identified under subsection (1)(c) of this rule with an interest in the document to be developed, shall provide all appropriate information to those agencies needed for meaningful input, and consider the views of each such agency. All draft regional conformity determinations as well as, supporting documentation shall be made available to agencies with an interest in the document and those agencies shall be given at least 30 days to submit comments on the draft document. Oregon Department of Transportation shall respond to substantive comments received from other agencies in a timely, substantive written manner at least 7 days prior to any final decision

on such document. Such views and written response shall be made part of the record of any decision or action.

(D) Meetings hereby required shall be open to the public. Timely written notification of any meetings relating to conformity shall be provided to those members of the public who have requested such notification. In addition, reasonable efforts shall be made to identify and provide timely written notification to interested parties.

(E) If no transportation projects are proposed for the upcoming fiscal year, there is no obligation to facilitate the annual meeting required by paragraphs (2)(d)(B) & (C) of this rule.

(F) The meetings required by paragraphs (2)(d)(B)&(C) of this rule may take place using telecommunications equipment, where appropriate.

(e) An MPO or Oregon Department of Transportation shall facilitate an annual statewide meeting, unless otherwise agreed upon by Oregon Department of Transportation, Oregon Department of Environmental Quality and the MPOs, of the affected agencies listed in subsection (1)(c) to review procedures for regional emissions and hot-spot modeling.

(A) The members of each agency shall annually jointly review the procedures used by affected MPOs and agencies to determine that the requirements of 40 CFR § 93.122 are being met by the appropriate agency.

(B) An MPO or Oregon Department of Transportation shall facilitate a statewide meeting of parties listed in subsection (1)(c) of this rule to receive comment on the United States Environmental Protection Agency guidelines on hot-spot modeling, to determine the adequacy of the guidelines, and to make recommendations for improved hot-spot modeling to the United States Environmental Protection Agency Regional Administrator. Oregon Department of Environmental Quality, Lane Regional Air Protection Agency, or any other regional air authority, may make recommendations for improved hot-spot modeling guidelines to the United States Environmental Protection Agency Regional Administrator with the concurrence of Oregon Department of Transportation . Oregon Department of Transportation may make recommendations for improved hot-spot modeling guidelines to the United States Environmental Protection Agency Regional Administrator with the concurrence of the affected air quality agency (e.g., Oregon Department of Environmental Quality, Lane Regional Air Protection Agency or any other regional air authority).

(C) The MPO or Oregon Department of Transportation shall determine whether the transportation modeling procedures are in compliance with the modeling requirements of 40 CFR § 93.122. The Oregon Department of Environmental Quality or Lane Regional Air Protection Agency (in Lane County), or any other regional air authority, shall determine whether the modeling procedures are in compliance with the air quality emissions modeling requirements

of 40 CFR § 93.122.

(D) The affected agencies shall evaluate and choose a model (or models) and associated methods and assumptions to be used in Hot-Spot Analyses and regional emissions analyses.

(f) The Federal Highway Administration and Federal Transit Administration will, for any proposed or anticipated transportation improvement program (TIP) or transportation plan conformity determination, provide a draft conformity determination to the Environmental Protection Agency for review and comment. The Federal Highway Administration and Federal Transit Administration shall allow a minimum of 14 days for EPA to respond. The United States Department of Transportation shall respond in writing to any significant comments raised by the Environmental Protection Agency before making a final decision. In addition, where the Federal Highway Administration and Federal Transit Administration request any new or revised information to support a TIP or transportation plan conformity determination, The Federal Highway Administration and Federal Transit Administration shall either return the conformity determination for additional consultation under subsections (2)(b) or (2)(d) of this rule, or the Federal Highway Administration and Federal Transit Administration shall provide the new information to the agencies listed in subsection (1)(c) of this rule for review and comment. Where the Federal Highway Administration and Federal Transit Administration choose to provide the new or additional information to the affected agencies listed in subsection (1)(c), the Federal Highway Administration and Federal Transit Administration shall allow for a minimum of 14 days to respond to any new or revised supporting information; the United States Department of Transportation shall respond in writing to any significant comments raised by the agencies consulted on the new or revised supporting information before making a final decision.

(g) Each agency subject to an interagency consultation process under this rule (including any Federal agency) shall provide each final document that is the product of such consultation process, together with all supporting information that has not been the subject of any previous consultation required by this rule, to each other agency that has participated in the consultation process within 14 days of adopting or approving such document or making such determination. Any such agency may supply a checklist of available supporting information, which such other participating agencies may use to request all or part of such supporting information, in lieu of generally distributing all supporting information.

(h) It shall be the affirmative responsibility of the agency with the responsibility for preparing a transportation plan or TIP revision which merely adds or deletes exempt projects listed in OAR 40 CFR § 93.126 to initiate the process by notifying other participants early in the process of decision on the final document and assure that all relevant documents and information are supplied to all participants in the consultation process in a timely manner.

(i) A meeting that is scheduled or required for another purpose may be used for the purposes of consultation required by this rule if the conformity consultation purpose is identified in the

public notice for the meeting.

(j) It shall be the affirmative responsibility of a project sponsor to consult with the affected transportation and air quality agencies prior to making a project level conformity determination required by this rule.

(3) Resolving conflicts.

(a) Any conflict among State agencies or between State agencies and an MPO shall be escalated to the Governor if the conflict cannot be resolved by the heads of the involved agencies. In the first instance, such agencies shall make every effort to resolve any differences, including personal meetings between the heads of such agencies or their policy-level representatives, to the extent possible.

(b) A State agency, regional air authority, or MPO has 14 calendar days to appeal a determination of conformity, SIP submittal, or other decision under this division, to the Governor after the State agency, regional air authority, or MPO has been notified of the resolution of all comments on such proposed determination of conformity, SIP submittal, or decision. If an appeal is made to the Governor, the final conformity determination, SIP submittal, or policy decision must have the concurrence of the Governor. The appealing agency must provide notice of any appeal under this subsection to the lead agency. If an action is not appealed to the Governor within 14 days, the lead agency may proceed.

(c) The Governor may delegate the role of hearing any such appeal under this section and of deciding whether to concur in the conformity determination to another official or agency within the State, but not to the head or staff of the State air quality agency or any local air quality agency, the State department of transportation, a State transportation commission or board, the Environmental Quality Commission, any agency that has responsibility for only one of these functions, or an MPO.

(4) Public consultation procedures. Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with these requirements and those of 23 CFR 450.316(a). Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.43. In addition, these agencies must specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity

determinations for projects where otherwise required by law.

*State effective: 3/5/2010; EPA approval: 10/4/2012, 77 FR 60627; EPA effective: 11/5/2012*

### **340-252-0070 Timeframe of Conformity Determinations**

Any election by an MPO to shorten the timeframe of a conformity determination under 40 CFR 93.106(d) requires approval of the Department of Environmental Quality or the Lane Regional Air Protection Agency, as applicable. ~~A shortened timeframe may be appropriate, for example, when projected future emissions fail to meet a Motor Vehicle Emissions Budget (MVEB) due to calculation methods that are inconsistent with the methods used to determine the MVEB. Such circumstances may exist for example, when emissions estimation methods have changed from those used to establish the MVEB.~~

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### **340-252-0230 Written Comments**

(1) In accordance with 40 CFR 93.122(a)(4)(ii), prior to making a conformity determination on the transportation plan or TIP, a Metropolitan Planning Organization or the Oregon Department of Transportation may not include emissions reduction credits from any control measures that are not included in the transportation plan or TIP and that do not require a regulatory action in the regional emissions analysis unless the Metropolitan Planning Organization, Oregon Department of Transportation or Federal Highway Administration/Federal Transit Administration obtains written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to implement those control measures must be fulfilled by the appropriate entities.

(2) In accordance with 40 CFR 93.125(c), prior to making a project-level conformity determination for a transportation project, the Federal Highway Administration/Federal Transit Administration must obtain from the project sponsor or operator written commitments, as defined in 40 CFR 93.101, to implement any project-level mitigation or control measures in the construction or operation of the project identified as conditions for NEPA process completion. The written commitments to implement those project-level mitigation or control measures must be fulfilled by the appropriate entities. Prior to making a conformity determination on the transportation plan or TIP a Metropolitan Planning Organization or Oregon Department of Transportation must ensure any project-level mitigation or control measures are included in the project design concept and Scope and are appropriately identified in the regional emissions analysis. Prior to making a project-level conformity determination, written commitments must be obtained before such mitigation or control measures are used in a project-level hot-spot analysis.

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## **DIVISION 256**

### **MOTOR VEHICLES**

#### **340-256-0010 Definitions**

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

- (1) "Basic test" means an inspection and maintenance program designed to measure exhaust emission levels during an unloaded idle mode as described in OAR 340-256-0340.
- (2) "CO<sub>2</sub>" means a chemical formula representing the compound carbon dioxide.
- (3) "Carbon monoxide" means a chemical formula representing the compound carbon monoxide.
- (4) "Certificate of Compliance" means a hard copy or electronic document that the vehicle identified on the certificate is equipped with the required functioning motor vehicle pollution control systems and otherwise complies with the Commission's emission control criteria, standards, and rules. A certificate of compliance is issued by a Private Business Fleet Vehicle Emission Inspector, a Public Agency Fleet Vehicle Emission Inspector, a Vehicle Emissions Inspector employed by the DEQ, or an Independent Contractor.
- (5) "Clean-Screening" means a procedure by which DEQ determines that a vehicle has acceptable emissions and then allows the vehicle owner to bypass the traditional emissions inspection station test. DEQ's decision may be the result of remotely sensing the emissions, the status of emissions equipment, or another means determined by DEQ.
- (6) "Commission" means the Environmental Quality Commission.
- (7) "Dealer" means any person who is engaged wholly or in part in the business of buying, selling, or exchanging, either outright or on conditional sale, bailment lease, chattel mortgage: or otherwise, motor vehicles.
- (8) "Dealership" means a business involved in the sale of vehicles that is franchised with an automobile manufacturer as defined in ORS 650.120(1).
- (9) "DEQ" means the Department of Environmental Quality.

(10) "Diesel motor vehicle" means a motor vehicle powered by a stratified charge compression-ignition internal combustion engine.

(11) "Director" means the director of DEQ.

(12) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(13) "Emissions" means gas or vapor released to the atmosphere from a motor vehicle component or resulting from fuel combustion within a motor vehicle engine.

(14) "Emissions Inspection Station" means a facility, operated by DEQ or an Independent Contractor, for the purpose of conducting emissions inspections of vehicles required to be inspected under this Division.

(15) "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream of the exhaust ports of a motor vehicle engine.

(16) "Factory-installed motor vehicle pollution control system" means a motor vehicle pollution control system installed by the vehicle or engine manufacturer to comply with United States motor vehicle emission control laws and regulations published in the Code of Federal Regulations, 40 C.F. R. Parts 85 and 86.

(17) "Franchised" means a sale entity licensed by the DMV and under an agreement as defined in ORS 650.120(5) to sell motor vehicles.

(18) "Gas analytical system" means a device that measures the amount of contaminants in the exhaust emissions of a motor vehicle, and that has been issued a license by DEQ under OAR 340-256-0450 and ORS 468A.380.

(19) "Gaseous fuel" includes, but is not limited to, liquefied petroleum and natural gases in liquefied or gaseous forms.

(20) "Gasoline motor vehicle" means a motor vehicle powered by a spark-ignition internal combustion engine.

(21) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum design loaded weight of a vehicle.

- (22) "Heavy duty motor vehicle" means any motor vehicle with a GVWR greater than 8,500 pounds.
- (23) "HC" is an abbreviation that means hydrocarbon.
- (24) "Hydrocarbon " means a class of chemical compounds consisting of hydrogen and carbon.
- (25) "Idle speed" means the engine speed when accelerator pedal is fully released.
- (26) "Imported vehicle" means a vehicle legally imported from another country through channels other than the maker's official distribution system.
- (27) "Independent Contractor" means any person with whom DEQ enters into an agreement providing for the construction, equipment, maintenance, personnel, management or operation of emissions inspection stations or activities under ORS 468A.370 and these rules.
- (28) "Inspection and Maintenance Program or I/M Program means a program of conducting regular inspections of motor vehicles, including measurement of air contaminants in the motor vehicle exhaust and an inspection of the motor vehicle pollution control system, to identify vehicles that do not meet the standards of this Division or that have malfunctioning, maladjusted or missing motor vehicle pollution control systems, and, when necessary, of requiring the repair or adjustment of vehicles to make the motor vehicle pollution control systems function as intended and to reduce tailpipe emissions of air contaminants.
- (29) "In-use motor vehicle" means any motor vehicle that is not a new motor vehicle.
- (30) "Light-duty motor vehicle" means any motor vehicle with a GVWR of 8,500 pounds or less.
- (31) "Model year" means the annual production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends. If the manufacturer does not designate a production period, the model year with respect to such vehicles or engines means the 12-month period beginning January of the year in which production of the vehicle or engine begins.
- (32) "Motor vehicle" or "vehicle" means any self-propelled vehicle used for transporting persons or commodities on public roads.
- (33) "Motor vehicle pollution control system" means equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle, or a system or engine adjustment or modification that causes a reduction of pollutants emitted from the vehicle,

or a system or device that inhibits the introduction of fuels that can adversely affect the overall motor vehicle pollution control system.

(34) "Motor Vehicle Fleet Operation" means ownership, control, management or any combination thereof by any person of five or more motor vehicles.

(35) "New motor vehicle" means a motor vehicle whose equitable or legal title has never been transferred to a person who in good faith purchases the motor vehicle for purposes other than resale.

(36) "OBD" and "OBD-IT" means the On Board Diagnostic system in a vehicle that tracks the effectiveness of the motor vehicle's pollution control systems.

(37) "OBD Test" means an emissions test that downloads diagnostic information from in which the vehicle's OBD computer to evaluate the effectiveness of the motor vehicle pollution control systems.

(38) "On-Site Vehicle Test" means an emissions test conducted at the vehicle owner's location.

(39) "Owner" means the person having all the incidents of ownership in a vehicle. Where the incidents of ownership are in different persons, it means the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement or a lease for a term of 10 or more successive days.

(40) "Opacity" means the degree to which transmitted light is obscured, expressed in percent.

(41) "Permanent Fleet Vehicle" means a motor vehicle that the Oregon Department of Transportation identifies with permanent fleet tags, stickers, plates or other identification ODOT determines appropriate.

(42) "Person" means any individual, public or private corporation, political subdivision, agency, board, department, or bureau of the state, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever that is recognized by law as the subject of rights and duties.

(43) "PPM" means parts per million by volume.

(44) "Private Business Fleet" means a group of 100 or more Oregon-registered, in-use, motor vehicles, that are owned by any person, excluding those vehicles held primarily for the purpose of resale.

(45) "Private Business Fleet Vehicle Emissions Inspector" means any person employed on a full-time basis by a Private Business Fleet who possesses a current and valid license issued by DEQ under OAR 340-256-0440 and ORS 468A.380.

(46) "Public Agency Fleet, means a group of 50 or more government-owned vehicles registered under ORS 805.040.

(47) "Public Agency Fleet Vehicle Emissions Inspector" means any person employed on a full-time basis by a Public Agency Fleet that possesses a current and valid license issued by DEQ under OAR 340-256-0440 and ORS 468A.380.

(48) "Public roads" means any street, alley, road, highway, freeway, thoroughfare, or section thereof used by the public or dedicated or appropriated to public use.

(49) "Regional Authority" means a regional air quality control authority established under the provisions of ORS 468A.005 to 468A.035, 468A.075, 468A.100 to 468A.130, and 468A.140 to 468A.175.

(50) "Remote Sensing" means a technique for determining the level of a vehicle's emissions without connecting equipment directly to the vehicle, done either by optically measuring the pollutants in the vehicle's exhaust plume, by remotely receiving a vehicle's emissions diagnostic information, or by other means determined by DEQ.

(51) "Ringlemann Smoke Chart" means the Ringlemann Smoke Chart with instructions for use as published in May, 1967, by the U.S. Department of Interior, Bureau of Mines, Information circular 8333.

(52) "RPM" means engine crankshaft revolutions per minute.

(53) "Self-Service Test " means a procedure for vehicle testing offered by DEQ where the vehicle owner or driver can perform an emissions test on the vehicle at a facility provided by DEQ using remote sensing, plug-in OBD emissions testing, or other means designated by DEQ.

(54) "Vehicle Emission Inspector" means any person employed by the Department or an Independent Contractor who possesses a current and valid license issued by the Department under OAR 340-256-0440 and ORS 468A.380.

(55) "VIN" or "Vehicle Identification Number" means a unique code including a serial number that identifies a specific vehicle.

(56) "Visible emissions" means those gases or particulates, excluding uncombined water, that separately or in combination are visible upon release to the outdoor atmosphere.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

## VISIBLE EMISSIONS

### **340-256-0100 Visible Emissions -- General Requirements, Exclusions**

(1) No person may operate, drive, or cause or permit to be driven or operated any motor vehicle upon a public street or highway that emits into the atmosphere any visible emission.

(2) Excluded from this rule are those motor vehicles:

(a) Powered by compression ignition or diesel cycle engines;

(b) Excluded by written order of the Department by ORS 468A.075.

(3) No person may operate, drive, or cause or permit to be driven or operated any motor vehicle upon a public street or highway if any element of the factory-installed motor vehicle pollution control system has been modified or altered in such a manner that decreases its efficiency or effectiveness in controlling air pollution in violation of ORS 815.305, except as noted in ORS 815.305(2).

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0110 Visible Emissions: Special Requirements for Excluded Motor Vehicles**

A person may not operate, drive, or cause or permit to be driven or operated upon a public street or highway, any motor vehicle excluded from OAR 340-256-0100 that:

(1) When operated at an elevation of 3,000 feet or less, emits visible emissions into the atmosphere:

(a) Of an opacity greater than 10 percent; or

(b) Of an opacity 40 percent or greater for a period exceeding seven consecutive seconds.

(2) When operated at an elevation over 3,000 feet, emits visible emissions into the atmosphere:

(a) Of an opacity greater than 20 percent; or

(b) Of an opacity of 60 percent or greater for a period exceeding seven consecutive seconds.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0130 Visible Emissions: Motor Vehicle Fleet Operation**

(1) Motor vehicle fleet operation records pertaining to observations, tests, maintenance, and repairs performed to control or reduce visible emissions from individual motor vehicles must be available for DEQ review and inspection.

(2) DEQ, by written notice, may require any motor vehicle of a motor vehicle fleet operation to be tested for compliance with OAR 340-256-0100 and 340-256-0110.

(3) A regional authority, within its territory, may perform the functions of DEQ as set forth in sections (1) and (2) of this rule, upon written directive of DEQ permitting such action.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0140 Visible Emissions: Dealer Compliance**

A dealer may not sell, exchange or lease, or offer for sale, exchange, or lease, any motor vehicle that operates in violation of OAR 340-256-0100 or 340-256-0110, except as permitted by federal regulations published in the Code of Federal Regulations, 40 C.F.R. Parts 85 and 86.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0150 Visible Emissions: Opacity Method of Measurement**

Only a trained person may make the opacity observation for purposes of OAR 340-256-0100 through 340-256-0140. A trained person may use a Ringelmann Smoke Chart or DEQ approved opacity equipment to measure emission opacity.

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

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0160 Visible Emissions: Alternative Methods of Measuring Visible Emissions**

(1) DEQ may, but is not required to, permit the use of alternative methods of measurement to determine compliance with the visible emissions standards in OAR 340-256-0100 and 340-256-0110 if DEQ determines that such alternative methods are demonstrated to be reproducible, selective, sensitive, accurate and applicable to a specific program. If DEQ permits the use of an alternative method of measurement, DEQ shall do so in writing in response to a request under section (2) of this rule.

(2) Any person desiring to utilize alternative methods of measurement must submit a request to use alternative methods of measurement to DEQ. A request must include such specifications and test data as DEQ may require, together with a detailed specific program for utilizing the alternative methods, sufficient to show that the alternative methods are reproducible, selective,

sensitive, accurate, and applicable to a specific program. DEQ may require any additional documentation that it deems necessary.

(3) A person may not undertake a program using an alternative method of measurement without having obtained prior written approval of DEQ.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

## CERTIFICATION OF POLLUTION CONTROL SYSTEMS

### **340-256-0200 Certification of Pollution Control Systems: County Designations**

Clackamas, Columbia, Jackson, Marion, Multnomah, Washington and Yamhill counties are hereby designated by the Environmental Quality Commission as counties in which all motor vehicles registered therein, unless otherwise exempted by statute or by rules subsequently adopted by the Commission, must be equipped with a motor vehicle pollution control system and must comply with motor vehicle emission standards adopted by the Commission.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0210 Certification of Pollution Control Systems: Criteria for Certification of Motor Vehicle Pollution Control Systems**

This rule documents the criteria for certification of motor vehicle pollution control systems. A motor vehicle pollution control system may be certified unless:

- (1) A motor vehicle pollution control system has equipment not designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle.
- (2) A motor vehicle pollution control system needs modifications, other than adjustments, to the original design of the motor vehicle.
- (3) A person has replaced the motor vehicle engine and the resulting vehicle chassis is not identical (including all emission related parts, engine design parameters, and engine calibrations) to a certified configuration of the same or newer model year, except for:
  - (a) Conversions to compressed natural gas or liquefied petroleum gasoline (LPG);
  - (b) A complete engine or engine conversion kit granted an Executive Order by the California Air Resources Board that DEQ deems to meet the standards of this Division;
  - (c) A complete powertrain on the U.S. Environmental Protection Agency's "Certified to EPA Standards" list, when the powertrain is used in its entirety and without modification, that DEQ deems to meet the standards of this Division;
  - (d) A foreign-built replacement engine that has a configuration certified by the U.S. Environmental Protection Agency or the California Air Resources Board that DEQ deems to



meet the standards of this Division.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0220 Compliance With Oregon Low Emission Vehicle Program**

Model years 2009 and newer vehicles that have 7,500 or fewer miles must meet the requirements of Chapter 340, Division 257 to qualify for a Certificate of Compliance.

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## **EMISSION CONTROL SYSTEM INSPECTION**

### **340-256-0300 Emission Control System Inspection: Scope**

Under ORS 468A.350 to 468A.400, 803.350, and 815.295 to 815.325, OAR 340-256-0300 through 340-256-0465 establish the criteria, methods, and standards for inspecting motor vehicles to determine eligibility for obtaining a Certificate of Compliance or inspection. Any person subject to these rules must obtain a Certificate of Compliance as required under ORS 803.350. Any person seeking an exemption from the inspection requirements of this rule must prepare and submit to DEQ or DMV a statement describing the grounds for the exemption on forms as provided by DEQ or DMV.

(1) Except as provided in section (3) of this rule, any person owning or leasing 1975 and newer model year vehicles in the Portland Vehicle Inspection Area must ensure the vehicles meet the requirements of one of the following emission tests:

(a) Basic test. A light duty vehicle of the model years specified in this paragraph must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, and 340-256-0400.

(A) Gasoline model year 1975 through 1995;

(B) Diesel model year 1975 through 1996

(b) A light duty gasoline vehicle that is a 1996 and newer model year or a light duty diesel vehicle that is a 1997 and newer model year must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle, incompatibility with the OBD test system, or other similar manufacturing problems, the vehicle must meet either the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0400, or other test criteria as determined by DEQ.

(c) A heavy duty vehicle must meet the basic test requirements of OAR 340-256-0340, 340-256-0390, and 340-256-0420, except gasoline powered heavy duty vehicles that are 2013 model year and newer and equipped with OBDII or higher systems must meet the OBD test requirements of

OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle, incompatibility with the OBD test system, or other similar manufacturing problems, the vehicle must meet either the basic test requirements of OAR 340-256-0340, 340-356-0380, 340-256-0400, or other test criteria as determined by DEQ.

(2) Except as provided in section (3) of this rule, any person owning or leasing vehicles that are up to 20 model years in age in the Medford-Ashland Air Quality Maintenance Area must ensure the vehicles meet the requirements of one of the following emission tests:

(a) A light duty gasoline vehicle that is a 1996 and newer model year or a light duty diesel vehicle that is 1997 and newer model year must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle, incompatibility with the OBD test equipment, or other similar manufacturing problems, the vehicle must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0400 or other test criteria as determined by DEQ.

(b) A light-duty vehicle that is 20 model years in age through 1995 model year must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, and 340-256-0400.

(c) A heavy duty vehicle must meet the basic test requirements of OAR 340-256-0340, 340-256-0390, and 340-256-0420. All gasoline powered heavy duty vehicles equipped with OBDII or higher systems must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle, incompatibility with the OBD test equipment, or other similar manufacturing problems, the vehicle must meet the basic test requirement of OAR 340-256-0340, 340-256-0390, and 340-256-0420 or other test criteria as determined by DEQ.

(d) Gasoline powered imported light duty and heavy duty vehicle conforming to EPA import regulations will be tested using basic or OBD test requirements as determined by DEQ.

(3) DEQ may test any gasoline powered heavy duty or light duty vehicle using one of the following procedures as an alternative to the test procedure otherwise required by this rule:

(a) Clean-Screen Testing following the procedures of OAR 340-256-0357; or

(b) Self-Service OBD Testing following the procedures of OAR 340-256-0358.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

**340-256-0310 Emission Control System Inspection: Government-Owned Vehicle,  
Permanent Fleet Vehicle and United States Government Vehicle Testing Requirements**

(1) All motor vehicles registered as government-owned vehicles under ORS 805.040 that are not exempted from certification under to ORS 815.300 must obtain a Certificate of Compliance. Government-owned vehicles must be certified biennially.

(2) Any motor vehicle registered as a permanent fleet vehicles under ORS 805.120 that are required to be certified under ORS 803.350 and 815.295 to 815.325 must obtain a Certificate of Compliance.

(3) Any motor vehicle that is to be registered under ORS 805.040 or 805.120 but which is not a new motor vehicle must obtain a Certificate of Compliance issued to it before it is registered, as required by ORS 803.350 and 815.295 to 815.325.

(4) All motor vehicles owned by the United States Government and operated in the Portland Vehicle Inspection Area or the Medford-Ashland AQMA must obtain a Certificate of Compliance biennially.

(a) United States Government tactical military vehicles are not required to be obtain Certificates of Compliance.

(b) Federal installations located within the Portland Area Vehicle Inspection Program and the Medford-Ashland AQMA must provide DEQ with a list of all federal employee-owned vehicles operated on the installation, demonstrate that these vehicles have complied with this Division, report inspection to DEQ each quarter, and update the list annually.

(5) For the purposes of providing a staggered certification schedule for vehicles registered as government-owned vehicles under ORS 805.040 or permanent fleet vehicles under ORS 805.120, such schedule must, except as provided by section (6) of this rule, be on the basis of the final numerical digit contained on the vehicle license plate. Such certification must be completed by the last day of the month as provided below (last digit and month or year, respectively):

(a) 1 --January;

(b) 2 -- February;

(c) 3 --March;

(d) 4 -- April;

(e) 5 - May;

(f) 6 -- June;

(g) 7 -- July;

(h) 8 - August;

(i) 9 -- September;

(j) 0 --October;

(k) Even-- even numbered years for vehicles tested biennially;

(l) Odd-- odd numbered years for vehicles tested biennially.

(6) In order to accommodate a fleet's scheduled maintenance practices, DEQ may grant a request for a specific separate schedule for vehicles registered as government-owned vehicles under ORS 805.040 or permanent fleet vehicles registered under ORS 805.120 if a Public Agency Fleet or Private Business Fleet licensed under OAR 340-256-0440 owns these vehicles.

(7) Every agency or organization owning fleet vehicles described in this rule must report the following information to DEQ, in either electronic or printed form, annually:

(a) The vehicle make;

(b) The vehicle model;

(c) The vehicle identification number (VIN);

(d) The number of Certificates of Compliance issued; and

(e) The issuing date of the motor vehicles were issued Certificates of Compliance.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0320 Emission Control System Inspection: Motor Vehicle Inspection Program Fee Schedule**

This rule sets out the fee schedule for Certificates of Compliance and licenses issued by DEQ's Vehicle Inspection Program:

(1) The cost of each Certificate of Compliance issued by DEQ, including those issued at emissions test stations and those issued through the Clean-Screen and Self-Service Testing procedures, is:

- (a) In the Portland Vehicle Inspection Area, a maximum of \$25; or
  - (b) In the Medford-Ashland AQMA, a maximum of \$15 until June 30, 2021; and then a maximum of \$20.
- (2) The cost of each Certificate of Compliance issued by a Private Business Fleet or Public Agency Fleet is:
- (a) In the Portland Vehicle Inspection Area, a maximum of \$10; and
  - (b) In the Medford-Ashland AQMA, a maximum of \$5.
- (3) The cost of each License issued to a Private Business Fleet or Public Agency Fleet is:
- (a) Initial \$5;
  - (b) Annual renewal \$1.
- (4) The cost of each License issued to a Private Business Fleet or Public Agency Fleet Vehicle Emission Inspector is:
- (a) Initial \$5;
  - (b) Annual renewal \$1.
- (5) The cost of each License issued for a Gas Analytical System is:
- (a) Initial \$5;
  - (b) Annual renewal \$1.
- (6) The cost of each Certificate of Compliance issued on-site to an automobile dealership is a maximum of \$30.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0330 Emission Control System Inspection: Department of Defense Personnel Participating in the Privately Owned Vehicle Import Control Program**

This rule documents DEQ's considerations regarding motor vehicle pollution control system requirements for Department of Defense personnel participating in the Privately Owned Vehicle Import Control Program.

- (1) U.S. Department of Defense (DOD) personnel participating in the DOD Privately Owned Vehicle (POV) Import Control Program operating a 1975 or newer model year vehicle, may temporarily remove catalytic converter systems, or, if applicable, exhaust gas oxygen (O<sub>2</sub>) sensor(s), if one of the following conditions is met:

(a) The vehicle will be driven to the port and surrendered for export under the above program within ten working days of disconnection, deactivation, or inoperability of the catalytic converter system or exhaust gas oxygen (O<sub>2</sub>) sensor(s); or

(b) The catalytic converter systems and exhaust gas oxygen (O<sub>2</sub>) sensor(s), are reconnected, reactivated or made operable within 10 working days from the time the owner picked up the vehicle at the port.

(2) Persons may disconnect, deactivate or render inoperable any catalytic converter system or exhaust gas oxygen (O<sub>2</sub>) sensor(s) on 1975 or newer model year vehicle of DOD personnel participating in the DOD POV Import Control Program which will be driven to the port and surrendered for exportation under said program within ten working days.

(3) Unless otherwise exempt under this Division, vehicles must be configured as a vehicle certified by the EPA for sale and use within the United States under 40 CFR, part 86, subpart A.

(4) Documentation must be kept with the vehicle at all times while the vehicle is operated in the United States which provides sufficient information to demonstrate compliance with all appropriate qualifications and conditions of this exemption, including the following:

(a) The unique VIN of the vehicle;

(b) The agency or organization that employs the owner of the vehicle;

(c) The country to which the owner of the subject vehicle is transferring;

(d) The date(s) when applicable alterations were performed on the vehicle;

(e) The date when the vehicle is scheduled to be delivered to the appropriate port for shipment out of the United States; and

(f) The date when the subject vehicle is picked up from the port of importation upon returning to the United States.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0340 Emission Control System Inspection: Light Duty Motor Vehicle and Heavy Duty Gasoline Motor Vehicle Emission Control Test Method for Basic Program**

This rule documents the general requirements and test sequence for the basic light duty motor vehicle and heavy duty gasoline motor vehicle emission test method.

(1) General Requirements:

- (a) The vehicle must have a properly affixed and readable VIN.
- (b) DEQ must reject from the testing area vehicles having coolant, oil or fuel leaks or any other such defect that make conducting the emission test unsafe. The inspector may not conduct the emissions test until the defects are corrected.
- (c) The vehicle transmission must be placed in neutral gear if equipped with a manual transmission or in park position if equipped with an automatic transmission. The hand or parking brake must be engaged. If the brake is defective, then wheel chocks must be placed in front of or behind the vehicle's tires, or both when appropriate.
- (d) All accessories are to be turned off.
- (e) The inspector must ensure that the motor vehicle is equipped with the required functioning motor vehicle pollution control system in accordance with the criteria of OAR 340-256-0380 or 340-256-0390. For vehicles not meeting these criteria upon completion of the testing process, the inspector must issue a report to the driver stating all ways in which the motor vehicle pollution control system does not meet the criteria of OAR 340-0256-0380 and 0390.
- (f) Exhaust gas sampling algorithm. The analysis of exhaust gas concentrations will begin 10 seconds after the applicable test mode begins and will be analyzed at a rate of two times per second. The measured value for pass or fail determinations will be a simple running average of the measurements taken over five seconds.
- (g) Pass or fail determinations. A pass or fail determination will be made for each applicable test mode based on a comparison of the applicable standards listed in OAR 340-256-0400 and 340-256-0420 and the measured value for HC and CO. A vehicle will pass the test mode if any pair of simultaneous values for HC and CO are below or equal to the applicable standards. A vehicle will fail the test mode if the values for either HC or CO or both, in all simultaneous pairs of values are above the applicable standards.
- (h) Void test conditions. If the measured concentration of CO plus CO<sub>2</sub> falls below the applicable standards listed in OAR 340-256-0380 and 340-256-0390, or if the vehicle's engine stalls at any time during the test sequence, the test will end, and any exhaust gas measurements will be voided.
- (i) Multiple exhaust pipes. Exhaust gas concentrations from vehicle engines equipped with

multiple exhaust pipes will be sampled simultaneously.

(j) The test will be terminated upon reaching the overall maximum test time.

(2) Test sequence.

The test sequence will consist of a first-chance idle mode, a high idle conditioning mode, and a second chance idle mode.

(a) First-chance idle mode: the engine RPM shall be maintained between 550 and 1300 during the first chance idle mode. The maximum duration of this test shall be 30 seconds.

(A) If, before an elapsed time of 30 seconds, the measured values are less than or equal to the applicable standards listed in OAR 340-256-0400 and 340-256-0420, the vehicle will pass, and the test will be terminated.

(B) If, before an elapsed time of 30 seconds, the measured values exceed the applicable gross emission standards listed in OAR 340-256-0400 and 340-256-0420, the vehicle will fail, and the test will be terminated.

(b) High idle conditioning mode: If, before an elapsed time of 30 seconds, the test has not been terminated in accordance with (2)(a)(A) or (2)(a)(B) then the engine RPM shall be raised and maintained between 2200 and 2800. The maximum duration of the high idle conditioning mode test shall be 180 seconds. If, before an elapsed time of 180 seconds, the measured values exceed the applicable gross emission standards listed in OAR 340-256-0400 and 340-256-0420 the vehicle will fail and the test will be terminated.

(c) Second-chance idle mode: If the test has not been terminated in accordance with (2)(a) or (2)(b) then the engine RPM shall be lowered and maintained between 550 and 1300 during the second chance idle mode. The maximum duration of the second-chance idle mode test shall be 30 seconds.

(A) If, before an elapsed time of 30 seconds, measured values are less than or equal to the applicable standards listed in OAR 340-256-0400 and 340-256-0420, the vehicle will pass, and the test will be terminated.

(B) If, before an elapsed time of 30 seconds, the measured values exceed the applicable gross emission standards listed in OAR 340-256-0400 and 340-256-0420, the vehicle will fail, and the test will be terminated.



(C) If, after an elapsed time of 30 seconds, measured values exceed the applicable standards listed in OAR 340-256-0400 and 340-256-0420, the vehicle will fail, and the test will be terminated.

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

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0355 Emission Control System Inspection: Emissions Control Test Method for OBD Test Program**

This rule documents the general requirements and test sequence for the light or heavy-duty vehicle OBD test method.

#### **(1) General Requirements:**

(a) DEQ must reject from the testing area vehicles having coolant, oil or fuel leaks or any other such defect that make conducting the emission test unsafe. The inspector may not conduct the emissions test until the defects are corrected.

(b) Light duty gasoline vehicles must be 1996 and newer model years.

(c) Light duty diesel vehicles must be 1997 and newer model years.

(d) Heavy duty gasoline vehicles must be 2013 and newer model years and equipped with an OBD-II compliant or newer OBD system.

(e) The vehicle must have a properly affixed and readable VIN.

(f) The vehicle's OBD system must match the original manufacturer's information and must communicate with DEQ's OBD analytical equipment.

(A) All 2005 and subsequent model year light duty vehicles must have the VIN included in the vehicle OBD information.

(B) All 2013 and subsequent model year heavy-duty vehicles must have the VIN included in the vehicle OBD information.

(g) If an Original Equipment Manufacturer LPG powered vehicle, model year 1996 through 2004, has a DEQ-recognized OBD manufacture defect, DEQ will follow the idle emission testing criteria of OAR 340-256-0340, OAR 340-256-0380, OAR 340-256-0390, OAR 340-256-

0400 and OAR 340-256-0420.

(2) Test criteria:

(a) Gasoline powered motor vehicles from model years 1996 to 2000 are allowed two unready monitors; 2001 and newer vehicles are allowed one unready monitor.

(b) Diesel powered motor vehicles from 1997 to 2008 are not allowed any unready monitors; 2009 and newer model year diesel powered motor vehicles are allowed one unready monitor.

(c) A vehicle which previously failed with either a catalyst or evaporative Diagnostic Trouble Code must have their respective monitor in a ready status to pass a subsequent retest. The vehicle will be allowed one or two unready monitors depending on the model year, but an unready catalyst or evaporative monitor cannot be one of them.

(d) Vehicle OBD systems deviating from manufacturer's design or intended operation will fail for:

(A) Malfunctions of the OBD systems triggering the Malfunction Indicator Light commanded on.

(B) A missing, broken or inaccessible Data Link Connector port.

(C) Low or missing vehicle battery voltage from the Data Link Connector port.

(D) Vehicle OBD data that does not match original manufacturer's OBD data.

(E) The OBD system VIN does not match the vehicle VIN labeling unless recognized by DEQ as a known unresolvable manufacture defect.

(F) The OBD system fails to properly communicate.

(e) When light duty 1996 – 1998 vehicles that DEQ knows have manufacture readiness issues have three or more unready monitors and do not fail OBD systems criteria in section (2)(d)(A-F), DEQ will test those vehicles with a basic test following OAR 340-256-0340.

(3) The Director or the Director's delegate may grant a waiver from one or more of the requirements or criteria listed in sections (1) and (2) for vehicle classes that DEQ determines present prohibitive inspection problems meeting the requirements or criteria of sections (1) and (2) if DEQ deems the motor vehicle pollution control system otherwise meets the standards of

this Division.

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

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0356 Emission Control System Inspection: Emissions Control Test Method for On-Site Vehicle Testing for Automobile Dealerships**

This rule documents the on-site motor vehicle emissions test method for automobile dealerships. The on-site vehicle test will be performed in accordance with OAR 340-256-0355. The test will be performed by DEQ using DEQ testing equipment and conducted at the dealership location. The test program applies to manufacturer franchise automobile dealerships. Dealerships may use either on-site testing or the centralized DEQ test stations, or DEQ authorized OBD devices.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0357 Emission Control System Inspection: Emissions Control Test Method for Clean-Screening Program**

This rule documents the Clean-Screening test method.

(1) DEQ may evaluate emissions of vehicles on the roadway using an optical attenuation method of observing actual pollutant emissions, remotely received electronic broadcasts of the vehicles' emissions diagnostic data, or other means approved under section (5) of this rule.

(2) A vehicle that meets DEQ's emissions standards for on-road testing within a time period not to exceed one year from its required registration date will be issued a Certificate of Compliance without being required to pass the emissions inspection station test otherwise required.

(3) Before implementing Clean-Screening under this rule, DEQ must conduct a rulemaking to establish processes, policies, and procedures, including:

- (a) The test technique for On-Road Clean-Screening;
- (b) The valid test period of On-Road Clean-Screening;
- (c) Procedures for identifying an on-road vehicle;
- (d) Procedures for protecting the test process from vandalism and cheating; and
- (e) Testing standards for Clean-Screening.

(4) If DEQ uses the optical attenuation method for Clean-Screening, 1975 and newer model year vehicles are eligible for Clean-Screening. If DEQ uses broadcast data from vehicles' OBD systems for Clean-Screening, 1996 and newer model year vehicles are eligible for Clean-Screening.

(5) If DEQ develops and implements additional test methods for use in the Clean-Screening program, DEQ must develop documentation that such method will provide equal or greater accuracy in identifying vehicles that would pass or fail the otherwise required emission test.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0358 Emission Control System Inspection: Emissions Control Test Method for Self-Service Testing Program**

This rule documents the Self-Service test method.

(1) DEQ may provide a testing method whereby the vehicle owner or their representative will perform the emissions test. The test performed will be either a remote sensing optical quantification of the tailpipe pollutants, a remote or computer connected OBD test, or other means approved under section (4) of this rule.

(2) Before implementing Self-Service Testing under this rule, DEQ must establish specific Self-Service Testing processes in DEQ's policies and procedures documents, including:

- (a) The test techniques to be used for Self-Service Testing;
- (b) Procedures for identifying the vehicle that will be subjected to Self-Service testing;
- (c) Procedures for protecting the Self-Service test process from vandalism and cheating; and
- (d) Testing standards for the Self-Service technique that will be used.

(3) If DEQ uses the optical attenuation method for Self-Service Testing, 1975 and newer model year vehicles are eligible for Self-Service Testing. If DEQ uses broadcast data or hardwire cable connection from vehicles' OBD systems for Self-Service Testing, 1996 and newer model year vehicles are eligible for Self-Service Testing.

(4) If DEQ develops and implements additional test methods for use in the Self-Service Testing program, DEQ must develop documentation that such method will provide equal or greater accuracy in identifying vehicles that would pass or fail the otherwise required emission test.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0370 Emission Control System Inspection: Renewal of Registration for Light Duty Motor Vehicles and Heavy Duty Gasoline Motor Vehicles Temporarily Operating Outside of Oregon**

Vehicles registered in the Portland Vehicle Inspection Area and Medford-Ashland AQMA and operated in another state at an address located at least 150 miles outside the Oregon border must comply with the following requirements.

(1) For vehicles operated within another Environmental Protection Agency approved Inspection and Maintenance (I/M) program area, the DEQ shall establish reciprocity provisions to ensure motor vehicle compliance with the other state's I/M requirements. Compliance with the other

state's I/M program requirements is equivalent to the issuance of a Certificate of Compliance.

(2) For vehicles operated in another state, but not within another Environmental Protection Agency approved Inspection and Maintenance (I/M) area, DEQ shall issue a temporary exemption from Oregon I/M Program testing requirements until the vehicle returns to Oregon. Within 30 calendar days of the date the vehicle returns to Oregon must comply with the Oregon I/M program's test criteria, methods and standards.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0380 Emission Control System Inspection: Light Duty Motor Vehicle Emission Control Test Criteria for Basic Program**

This rule documents the Basic Test criteria for light duty motor vehicles.

(1) A vehicle emission control test is not valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the gas analytical system. For the purpose of the emission control tests conducted at state facilities, except for diesel motor vehicles, tests are invalid if the exhaust gas is diluted to such an extent that the sum of the CO and CO<sub>2</sub> concentrations recorded for the idle speed reading from an exhaust outlet is six percent or less, and, on 1975 and newer model year vehicles with air injection systems seven percent or less.

(2) A vehicle emission control test is not valid if the engine idle speed exceeds the manufacturer's idle speed specifications by over 200 RPM.

(3)(a) A vehicle emission control test for a 1975 or newer model year vehicle is not valid if the gas cap or catalyst has been disconnected, plugged, or otherwise made inoperative in violation of ORS 815.305(1), except as noted in ORS 815.305(2) or as provided for by 40 CFR 85.1701-1709

(published July 1, 2003).

(b) DEQ may provide alternative criteria for those required under subsection (a) of this section if it determines that the component or an acceptable alternative is unavailable.

(c) The use of a non-original equipment aftermarket part (including a rebuilt Part) as a replacement part is not a violation of ORS 815.305 if DEQ determines that such use will not adversely affect emission control efficiency.

(d) The use of a nonoriginal equipment aftermarket part or system as an add -on, auxiliary; augmenting, or secondary part of system, is not a violation of ORS 815.305 if such part or system has an Executive Order granted by the California Air Resources Board, is on the U.S. Environmental Protection Agency's list of "Certified to EPA Standards," and DEQ has

determined after reviewing testing data that there is no decrease in the efficiency or effectiveness in the control of air pollution;

(e) Adjustments or alterations of particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not violations of ORS 815.305.

(4) A 1981 or newer model year vehicle that has been converted to operate on gaseous fuels is not in violation of ORS 815.305 when elements of the factory-installed motor vehicle air pollution control system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 815.305.

(5) For a 1975 through 1980 model year vehicle in which the original engine has been replaced, if either the vehicle body or chassis original engine (per registration/title) or replacement engine (as manufactured) had a catalytic converter system, it must be present, intact, and operational before DEQ may issue a Certificate of Compliance.

(6) For a 1981 or newer model year vehicle in which the original engine has been replaced, the emission test standards and applicable emissions control equipment for the year, make, and model of the vehicle body or chassis (per registration or title) or replacement engine, whichever is newer, apply. For those diesel powered vehicles that have been converted to operate on gasoline or gasoline equivalent fuel(s), the emission test standards and applicable emission control equipment for the year, make, and model of the gasoline equivalent powered engine as originally manufactured, for the vehicle body or chassis (per the registration) or replacement engine, whichever is newer, apply.

(7) For those vehicles registered or titled as a 1981 or newer model year that were assembled by other than a licensed motor vehicle manufacturer, such as an Assembled, Reconstructed, or Replica Vehicle, DEQ personnel must determine the applicable emission test standards based upon the vintage of the vehicle engine. The year of the engine is presumed to be that stated by the vehicle owner, unless DEQ personnel determine, after physical inspection, that the year of the engine is other than that stated by the owner.

(8) An imported nonconforming motor vehicle that has been imported under a certificate of conformity or modification/test procedure under 40 CFR Part 85, Subpart P, or has been granted an exemption under 40 CFR § 85.1511, must comply with the emission control equipment requirements of such certificate or procedure.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0390 Heavy Duty Gasoline Motor Vehicle Emission Control Test Criteria**

This rule documents the heavy duty gasoline motor vehicle emission test criteria.

(1) A vehicle emission control test is not valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust emissions being sampled by the gas analytical system. For the purpose of emission control tests conducted at state facilities, tests will not be considered valid if the exhaust emissions are diluted to such an extent that the sum of the CO and CO<sub>2</sub> concentrations recorded for the idle speed reading from an exhaust outlet is six percent or less.

(2) A vehicle emission control test is not valid if the engine idle speed exceeds 1300 RPM.

(3)(a) A vehicle emission control test is not valid if the gas cap or catalyst has been disconnected, plugged, or otherwise made inoperative in violation of ORS 815.305(1), except as noted in ORS 815.305(2):

(b) DEQ may provide alternative criteria for those required under subsection (a) of this section if it determines that the component or an acceptable alternative is unavailable.

(c) The use of a nonoriginal equipment aftermarket part (including a rebuilt part) as a replacement part is not a violation of ORS 815.305, if DEQ determines that such use will not adversely affect emission control efficiency.

(d) Adjustments or alterations of a particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not violations of ORS 815.305.

(4) A 1981 or newer model motor vehicle which has been converted to operate on gaseous fuels is in violation of ORS 815.305 if elements of the factory-installed motor vehicle air pollution control system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 815.305.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0400 Emission Control System Inspection: Light Duty Motor Vehicle Emission Control Standards for Basic Program**

This rule documents the standards not to be exceeded for light duty motor vehicles that undergo the Basic emission test.

(1) Light Duty Diesel Motor Vehicle Emission Control Standards: 1.5% CO; there is no HC standard.

(2) Light Duty Gasoline Motor Vehicle Emission Control Standards: Four-Stroke Cycle — Passenger Cars:

- (a) 1975–1980 Model Year:
  - (A) With Catalyst: 1.0% CO and 220 ppm HC;
  - (B) Without Catalyst: 2.5% CO and 300 ppm HC.
- (b) 1981 and Newer Model Year: at idle — 1.0% CO and 220 ppm HC;
- (3) Light Duty Gasoline Motor Vehicle Emission Control Standards — Light Duty Trucks:
  - (a) 6,000 GVWR or less:
    - (A) 1975–1980 Model Year:
      - (i) With Catalyst: 1.0% CO and 220 ppm HC;
      - (ii) Without Catalyst: 2.5% CO and 300 ppm HC.
    - (B) 1981 and Newer Model Year: at idle — 1.0% CO and 220 ppm HC;
  - (b) 6,001 to 8,500 GVWR:
    - (A) 1975–1978 Model Year: 2.5% CO and 300 ppm HC;
    - (B) 1979–1980 Model Year:
      - (i) With Catalyst: 1.0% CO and 220 ppm HC;
      - (ii) Without Catalyst: 2.5% CO and 300 ppm HC.
    - (C) 1981 and Newer: at idle — 1.0% CO and 220 ppm HC;
- (4) Gross CO emissions exceed the applicable model year CO standard by a factor of one and one-half (1.5).
- (5) Gross HC emissions exceed the applicable model year HC standard by a factor of three (3).
- (6) Visible emissions must not occur during the steady-state unloaded and raised rpm engine idle portions of a gasoline engine emission test from either the vehicle’s exhaust system or the engine crankcase. For a diesel engine emissions test, visible emissions must not exceed 20% opacity.
- (7) The Director or Director’s delegate may grant a waiver from standards listed in sections (1)–(6) for vehicle classes that DEQ determines present prohibitive inspection problems meeting the standards in sections (1) – (6) if DEQ deems the motor vehicle pollution system otherwise meets the standards of this Division.

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



### **340-256-0420 Emission Control System Inspection: Heavy-Duty Gasoline Motor Vehicle Emission Control Standards**

This rule documents the standards not to be exceeded for heavy duty gasoline vehicle emission tests.

(1) CO idle emission values:

(a) 1975–1978 Model Year: 4.0%;

(b) 1979 and Newer Model Year without catalyst: 3.0%;

(c) 1985 and Newer Model Year with catalyst: 1.0%.

(2) Gross CO emissions exceed the applicable model year CO standard by a factor of one and one-half (1.5).

(3) Hydrocarbon idle emission values not to be exceeded:

(a) 1975–1978 Model Year: 500 PPM;

(b) 1979 and Newer Model Year without catalyst: 350 PPM;

(c) 1985 and Newer Model Year with catalyst: 220 PPM.

(4) Gross HC emissions exceed the applicable model year HC standard by a factor of three (3).

(5) Visible emission must not occur during the steady-state unloaded engine idle and raised rpm portion of the emission test from either the vehicle's exhaust system or the engine crankcase.

(6) The Director may grant a waiver from standards listed in sections (1) through (4) for vehicle classes that DEQ determines present prohibitive inspection problems meeting the listed standards in sections (1) – (4) if DEQ deems the motor vehicle pollution system otherwise meets the standards of this Division.

### **340-256-0440 Emission Control System Inspection: Criteria for Qualifications of Persons Eligible to Inspect Motor Vehicles and Motor Vehicle Pollution Control Systems and Execute Certificates**

(1) Five separate classes of licenses are:

(a) Private Business Fleet;

(b) Public Agency Fleet;

(c) Private Business Fleet Vehicle Emission Inspector;

(d) Public Agency Fleet Vehicle Emission Inspector;

(e) Vehicle Emission Inspector.

(2) License applicants must complete a form that DEQ provides.

(3)(a) Each fleet's license is valid for not more than one year and expires on December 31 of each year unless revoked, suspended, or returned to DEQ;

(b) Each Inspector's license is valid for not more than two years and expires on December 31 of every other year unless revoked, suspended, or returned to DEQ.

(4) DEQ will not issue any license until the applicant has fulfilled all requirements and paid the required fee.

(5) A license is not transferable.

(6) DEQ may renew a license if the applicant submits an application and renewal fee within 30 days before the license's expiration date and the applicant complies with all other licensing requirements.

(7) DEQ may suspend, revoke, or not renew a license if the licensee has violated this Division ORS 468A.350 to 468A.400, or 815.295 to 815.325.

(8) A Private Business Vehicle Emission Inspector or Public Agency Fleet Vehicle Emission Inspector license is valid only for inspection of and execution of Certificates of Compliance for motor vehicle pollution control systems and motor vehicles of the Private Business Fleet or Public Agency Fleet that employs the Private Business Fleet Vehicle Emission Inspector or Public Agency Fleet Vehicle Emission Inspector on a full time basis. DEQ may authorize a Public Agency Fleet Vehicle Emission Inspector to perform inspections and execute Certificates of Compliance for vehicles of other governmental agencies if the inspector has contracted with that agency for that service and the Director approves the contract.

(9) To initially receive or renew a license as a Private Business Fleet Vehicle Emission Inspector, a Public Agency Fleet Vehicle Emission Inspector or a Vehicle Emission Inspector, the applicant must be an employee of a Private Business Fleet, a Public Agency Fleet, the DEQ Vehicle Inspection Program, or an employee of an Independent Contractor and submit a completed application. All Inspectors must receive formal training and be licensed or certified to perform inspections under this Division. The duration of the training program for persons employed by a Private Business Fleet or a Public Agency Fleet must be at least 16 hours.

(a) Training.

(A) Inspector training must include the following subjects:

- (i) The air pollution problems, its causes and effects;
- (ii) The purpose, function and goal of the inspection program;
- (iii) Inspection regulations and procedures;
- (iv) Technical details of the test procedure and the rationale for their design;
- (v) Test equipment operation, calibration and maintenance;
- (vi) Emission control device function, configuration and inspection;
- (vii) Quality control procedures and their purpose;
- (viii) Public relations;
- (ix) Safety and health issues related to the inspection process; and
- (x) OBD test systems.

(B) In order to complete the training requirement, a trainee must pass (minimum of 80% correct responses) a written test covering all aspects of the training. In addition, a hands-on test must be administered in which the trainee demonstrates without assistance the ability to conduct a proper inspection, to properly utilize equipment and to follow other procedures. Inability to properly conduct all test procedures shall constitute failure of the test. DEQ will take appropriate steps to insure the security and integrity of the testing process.

(b) Licensing and certification.

(A) DEQ must license or certify all inspectors before they may perform official inspections.

(B) Completion of Inspector training and passing required tests is a condition of licensing or certification.

(C) Inspector licenses and certificates are valid for no more than 2 years, at which point refresher training and testing are required before renewal. Alternative approaches based on more comprehensive skill examination and determination of Inspector competency may be used.

(D) Licenses and certificates are not a legal right, but rather, are a privilege bestowed by the Department and conditional upon adherence to DEQ requirements.

(c) Enforcement against Inspectors: Any violations of procedures in this division are subject to DEQ's enforcement procedures. License or certificate suspension or revocation prohibits the individual from direct or indirect involvement in any inspection operation during the term of the suspension or revocation.

(10) To be licensed as a Private Business Fleet or a Public Agency Fleet, the applicant must:

(a) Employ on a full time basis a Private Business Fleet Vehicle Emission Inspector or;

(b) Employ on a full time basis a Public Agency Fleet Vehicle Emission Inspector; and

(c) Be equipped with a gas analytical system complying with criteria established in OAR 340-256-0450;

(d) If 1996 and newer model year light duty vehicles are a part of the self-inspected fleet of vehicles, the fleet must be equipped with a scan tool for downloading vehicle OBD emissions data with criteria established in OAR 340-256-0465.

(11) A person licensed as a Private Business Fleet or Public Agency Fleet may not advertise or represent themselves as being licensed to inspect motor vehicles to determine compliance with the criteria and standards of OAR 340-256-0380 and 340-256-0400.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0450 Emission Control System Inspection: Gas Analytical System Licensing Criteria for Basic Program**

This rule documents licensing criteria for use of gas analytical systems in the Basic test method.

(1) Computerized test systems are required equipment for performing any measurement on subject vehicles. The test equipment must be certified to meet the requirements and performance features contained in 40 CFR Part 51 Appendix D (November 5, 1992) and new equipment must be subjected to acceptance test procedures to ensure compliance with Oregon I/M Program specifications.

(a) Emission test equipment must be capable of testing all subject vehicles and shall be updated from time to time to accommodate new technology vehicles as well as changes to the Oregon I/M Program.

(b) At a minimum, emission test equipment must be:

(A) Automated to the highest degree commercially available to minimize the potential for intentional fraud and/or human error;

(B) Secure from tampering and/or abuse;

(C) Based upon written specifications; and

(D) Capable of simultaneously sampling dual exhaust vehicles.

(c) The vehicle owner or driver must be provided with a computer-generated record of test results, including all of the items listed in 40 CFR Part 85, subpart W, required on the test record. The test report must include:

(A) A vehicle description, including license plate number, VIN, and odometer reading;

(B) The date and time of the test;

(C) The name or identification number of individual(s) performing the tests and the location of the test station and lane;

(D) The type of test performed, including emission tests, visual checks for the presence of emission control components, and functional, evaporative checks;

(E) The applicable test standards;

(F) A statement indicating the availability of warranty coverage as required in section 207 of the Clean Air Act (1990);

(G) Certification that tests were performed in accordance with the regulations of this Division; and

(H) For vehicles that fail the tailpipe emission test, information on the possible causes of the specific pattern of high emission levels found during the test.

(2) Functional characteristics of computerized test systems. The test system is composed of emission measurement devices and other motor vehicle test equipment controlled by a computer.

(a) The test system must automatically:

(A) Make a pass or fail decision for all measurements;

(B) Record test data to an electronic medium;

(C) Conduct regular self-testing of recording accuracy;

(D) Perform electrical calibration and system integrity checks before each test, as applicable; and

(E) Initiate system lockouts for:

(i) Tampering with security aspects of the test system;

(ii) Failing to conduct or pass periodic calibration or leak checks; and

(iii) A full data recording medium or one that does not pass a cyclical redundancy check.

(b) The test system must ensure accurate data collection by limiting, cross-checking; and/or confirming manual data entry.

(3) Gas analytical systems used by Private Business Fleets or Public Agency Fleets must meet the criteria established in this rule.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0465 Emission Control System Inspection: Test Equipment Licensing Criteria for OBD Test Program**

This equipment must contain the standard terminal Diagnostic Link Connector for OBD systems and be capable of the following:

(1) Making an automatic pass/fail decision based on malfunction indicator light observations and vehicle OBD system download.

(2) Transferring electronic vehicle test result to the VIP central data server for emissions data.

(3) Meeting additional fleet operations specifications as prescribed by DEQ.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

### **340-256-0470 Emission Control System Inspection: Agreement with Independent Contractor; Qualifications of Contractor; Agreement Provisions**

(1) The Director is authorized to enter into an emissions inspection agreement with one or more independent contractors, subject to public bidding, to provide for the construction, equipment, establishment, maintenance and operation of any emissions inspection stations or activities in such numbers and locations as may be required to provide vehicle owners reasonably convenient access to inspection facilities for the purpose of obtaining compliance with rules contained in this Division.

(2) The Director is prohibited from entering into an emissions inspection agreement with any independent contractor who:

(a) Is engaged in the business of manufacturing, selling, maintaining or repairing vehicles, except that the independent contractor shall not be precluded from maintaining or repairing any vehicle owned or operated by the independent contractor;

(b) Does not have the capability, resources or technical and management skill to adequately construct, equip, operate or maintain a sufficient number of emissions inspection stations to meet the demand for inspection of every vehicle which is required to be submitted for inspection pursuant to this Division.

(3) All persons employed by the independent contractor in the performance of an emissions inspection agreement are employees of the independent contractor and not of this state. An employee of the independent contractor shall not wear any badge, insignia, patch, emblem, device, word or series of words which would tend to indicate that such person is employed by this state. Employees of the independent contractor are specifically prohibited under this subsection from wearing the flag of this state, the words "state of Oregon," the words "emissions inspection program" or any similar emblem or phrase.

(4) The emissions inspection agreement authorized by this rule shall contain at least the following provisions:

- (a) A contract term or duration of not more than ten years with reasonable compensation to the contractor if the provisions of this rule are repealed during the ten year term;
- (b) That nothing in the agreement or contract requires the state to purchase any asset or assume any liability if such agreement or contract is not renewed;
- (c) The minimum requirements for adequate staff, equipment, management and hours and place of operation of emissions inspection stations;
- (d) The submission of such reports and documentation concerning the operation of emissions inspection stations as the Director and the Attorney General may require;
- (e) Surveillance by DEQ and the Department of Administrative Services to ensure compliance with vehicle emissions testing standards, procedures, rules and laws;
- (f) The right of this state, upon providing reasonable notice to the independent contractor, to terminate the contract with the independent contractor and to assume operation of the vehicle emissions inspection program;
- (g) The right of this state upon termination of the term of the agreement or upon assumption of the operation of the program to have transferred and assigned to it for reasonable compensation any interest in land, buildings, improvements, equipment, parts, tools and services used by the independent contractors in their operation of the program;
- (h) The right of this state upon termination of the term of the agreement or assumption of the operation of the program to have transferred and assigned to it any contract rights, and related obligations, for land, buildings, improvements, equipment, parts, tools and services used by the independent contractors in their operation of the program;
- (i) The obligation of the independent contractors to provide in any agreement to be executed by them, and to maintain in any agreements previously executed by them, for land, buildings, improvements, equipment, parts, tools and services used in their operation of the program for the right of the independent contractors to assign to this state any of their rights and obligations under such contract;
- (j) The amounts of liquidated damages payable by this state to the independent contractor if the state exercises its right to terminate the contract at the conclusion of the first, second, third or fourth year of the contract pursuant to section (f) of this rule. The damages recoverable by the independent contractor if the state exercises its right to terminate the contract shall be limited to the liquidated damages specified in the contract;



(k) Any other provision deemed necessary by the Department of Administrative Services for enforcement of the emissions inspection agreement.

(5) In conjunction with the Attorney General and the Department of Administrative Services, the DEQ shall establish bid specifications or contract terms for a contract with an independent contractor as provided in this rule, review bids for award of a contract with the independent contractors and negotiate any terms of a contract with the independent contractors.

(6) Before entering into any contract the Director shall inquire into the marketplace of independent contractors and based upon this review shall select the independent contractor who in the sole discretion of the Director is best qualified to perform the duties required by this rule and can be operational on January 1, 1998. After a contract is awarded to an independent contractor, the Director may modify the contract with the independent contractor to allow the contractor and the state to comply with amendments to applicable statutes or rules. This modification is exempt from public bidding and may include the addition, deletion or alteration of any contract provision in order to make compliance feasible, including inspection fees and services rendered. Provisions relating to contract term or duration may be amended, except that the term or duration of the contract shall not be extended more than three and one-half years beyond the term of the original contract as awarded. If the Director cannot negotiate an acceptable modification of the contract, the state may terminate the contract.

*State effective: 11/19/2020; EPA approval: 7/12/2022, 87 FR 41256; EPA effective: 8/11/2022*

## **DIVISION 258**

### **MOTOR VEHICLE FUEL SPECIFICATIONS**

#### **340-258-0010 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) “Attest Engagement” means a review of nonfinancial records by a CPA.

(2) “Averaging Period” means the period of time over which all gasoline sold or dispensed for use in a control area by any control area responsible party must comply with the average oxygen content standard.

- (3) “Blend” means regular, unleaded, supreme or other trade names for gasoline products containing differing levels of octane.
- (4) “Blender Control Area Responsible Party (Blender CAR)” means a person who owns oxygenated gasoline which is sold or dispensed from a control area oxygenate blending facility.
- (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) “Carrier” means any person who transports, stores, or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline and without altering the quality or quantity of the gasoline.
- (7) “Control Area” means a geographic area listed in OAR 340-204-0090 in which only gasoline that meets the requirements of OAR 340-258-0110 through 340-258-0310 may be sold or dispensed.
- (8) “Control Area Oxygenate Blending Facility” means any facility or truck at which oxygenate is added to gasoline that is intended for use in any control area, and at which the quality and quantity of gasoline is not otherwise altered, except through the addition of deposit-control additives.
- (9) “Control Area Responsible Party (CAR)” means a person who owns gasoline and/or oxygenates that is sold or dispensed from a control area terminal.
- (10) “Control Area Terminal” means a terminal storage facility that is capable of receiving gasoline in bulk by pipeline or marine vessel, or at which gasoline is altered either in quantity or quality, excluding the addition of deposit control additives. Gasoline that is intended for use in any control area is sold or dispensed into trucks at these control area terminals.
- (11) “Control Period” means the period from November 1 through February 29, during which oxygenated gasoline must be sold or dispensed within the control area.
- (12) “Department” means the Department of Environmental Quality.
- (13) “Distributor” means a person who transports or stores or causes the transportation or storage of gasoline at any point between a gasoline refinery or importer’s facility and any retail outlet or wholesale purchaser-consumer’s facility.

(14) “EPA” means the U.S. Environmental Protection Agency.

(15) “EPA Substantially Similar Ruling” means a fuel or fuel additive for general use in light-duty vehicles manufactured after the model year 1974, that is substantially similar to a fuel or fuel additive used to certify a model year 1975 or newer vehicle or engine under **42 U.S.C. 7525** (Clean Air Act, Section 206), as amended through November 15, 1990 and any amendments or modifications thereto, and as specified in EPA’s Interpretative Ruling at **56 Federal Register 5352 - 5356**, revised through February 11, 1991, and that the EPA has ruled meets the following criteria:

(a) The fuel contains carbon, hydrogen, and any or all of the elements of oxygen, nitrogen, or sulfur exclusively, with the exception of trace levels of impurities which produce gaseous combustion products, in the form of some combination of:

(A) Hydrocarbons;

(B) Aliphatic ethers;

(C) Aliphatic alcohols other than methanol;

(D) Up to 0.3 percent methanol by volume;

(E) Up to 2.75 percent methanol by volume with an equal amount of butanol, or high molecular weight alcohol; or

(F) A fuel additive at a concentration of no more than 0.25 percent by weight which contributes no more than 15 ppm sulfur by weight to the fuel.

(b) The fuel contains no more than 2.0 percent oxygen by weight, except that fuels containing aliphatic ethers and/or alcohols (except methanol) must contain no more than 2.7 percent oxygen by weight;

(c) The fuel possesses, at the time of manufacture, the physical and chemical characteristics of an unleaded gasoline as specified by **ASTM Standard D4814-88** for at least one of the Seasonal and Geographical Volatility Classes specified in the standard; and

(d) The fuel contains only:

(A) Carbon;

(B) Hydrogen; and

(C) Any or all of the following elements: oxygen, nitrogen and sulfur.

(16) “EPA Waiver” means any current motor fuel waivers granted by the U.S. Environmental Protection Agency under authority of **42 U.S.C. 745(f)(4)** (Clean Air Act, Section 211), as amended through November 15, 1990 and any amendments or modifications thereto.

(17) “Gasoline” means:

(a) as used in OAR 340-258-0100 through 340-258-0310 any fuel sold for use in motor vehicles and motor vehicle engines and commonly or commercially known or sold as gasoline;

(b) as used in OAR 340-258-0400 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.

(18) “Motor Vehicle” means any self-propelled vehicle designed and used for transporting persons or property on a street or highway.

(19) “Nonoxygenated Gasoline” means any gasoline which does not meet the definition of oxygenated gasoline.

(20) “Oxygen Content of Gasoline Blends” means the percentage of oxygen by weight contained in a gasoline blend, based upon its percentage oxygenate by volume, excluding denaturants and other non-oxygen-containing components. All measurements must be adjusted to 60E F.

(21) “Oxygenate” means any substance which, when added to gasoline, increases the amount of oxygen in that gasoline blend. Lawful use of any combination of these substances requires that they be “Substantially Similar” under Section 211(f)(1) of the Clean Air Act (CAA), or be permitted under a waiver granted by the Administrator of the Environmental Protection Agency under the authority of Section 211(f)(4) of the CAA.

(22) “Oxygenate Blender” means a person who owns, leases, operates, controls, or supervises a control area oxygenate blending facility.

(23) “Oxygenated Gasoline” means any gasoline which when supplied on a per gallon basis contains at least 2.7 percent oxygen by weight, except where otherwise required by OAR 340-258-0310, or which when supplied using the averaging method contains at least 2.0 percent oxygen by weight, and has been included in the oxygenated gasoline program accounting by a

control area responsible party and which is intended to be sold or dispensed for use in any control area during a control period.

(24) “Permitted Control Area Responsible Parties” means any owner of gasoline being imported or sold at or from a terminal who obtains a terminal operator permit to market gasoline in a control area during the control period.

(25) “Refiner” means a person who owns, leases, operates, controls, or supervises a refinery that produces gasoline for use in a control area.

(26) “Refinery” means a plant at which gasoline is produced.

(27) “Reseller” means a person who purchases gasoline and resells or transfers it to a retailer or wholesale purchaser-consumer.

(28) “Retail Outlet” means any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor vehicles.

(29) “Retailer” means any person who owns, leases, operates, controls, or supervises a retail outlet.

(30) “Substantially Similar” means EPA substantially similar ruling.

(31) “Terminal” means a facility capable of receiving gasoline by pipeline or marine vessel at which gasoline is sold, or dispensed into trucks for transportation to retail outlets or wholesale purchaser-consumer facilities.

(32) “Wholesale Purchaser-Consumer” means any organization that is an ultimate consumer of gasoline and which purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of that product into a storage tank of at least 550 gallon capacity substantially under the control of that organization.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

## OXYGENATED GASOLINE

### **340-258-0100 Policy**

The Environmental Quality Commission finds and determines that control area responsible parties, distributors and retail outlets are “Indirect Sources” as defined in OAR 340-254-0030.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0110 Purpose and General Requirements**

(1) Pursuant to ORS 468A.420, OAR 340-258-0100 through 340-258-0310 apply to:

(a) A person who refines, distributes, blends, supplies, sells, offers for sale, or otherwise markets gasoline for use in motor vehicles; and

(b) Permitted control area responsible parties who own gasoline being imported or being sold at or from terminals who market gasoline.

(2) Except as provided in OAR 340-258-0300, the requirements of OAR 340-258-0110 through 340-258-0310 apply only from November 1 to February 29, and only within a control area listed in OAR 340-204-0090.

(3) The labeling requirements of OAR 340-258-0300 apply only within a control area during the control period.

**[NOTE:** This applies only to the Department rules and a dispenser is still responsible for complying with the disclosure requirements of ORS 646.915.]

(4) To reduce carbon monoxide air pollution from motor vehicles in a control area, OAR 340-258-0110 through 340-258-0310 requires:

(a) The dispensing into gasoline powered motor vehicles of an oxygenated gasoline with an oxygen content that meets the requirements of OAR 340-258-0140 or 340-258-0150, and 340-258-0160, as applicable;

(b) That a dispenser where an oxygenated gasoline is dispensed be labeled as required by OAR 340-258-0300;

(c) That oxygenated gasoline be blended as required by OAR 340-258-0170; and

(d) A person who refines, distributes, blends, supplies, or sells an oxygenated gasoline to meet the recordkeeping and reporting requirements of OAR 340-258-0110 through 340-258-0310.

(5) Nothing in OAR 340-258-0110 through 340-258-0310 precludes a person from using, refining, distributing, blending, supplying, selling, or otherwise marketing fuel that meets the requirements of OAR 340-258-0110 through 340-258-0310:

(a) Between March 1 and October 31 in a control area; or

(b) At any time in any other location statewide.

(6) Nothing in OAR 340-258-0110 through 340-258-0310 precludes a person from using, refining, distributing, blending, supplying, selling, or otherwise marketing nonoxygenated fuel:

(a) Between November 1 and February 29 outside of control areas;

(b) At dispensing facilities where motor vehicles are not fueled.

(7) Except as provided in OAR 340-258-0230, the following dispensing sites are exempt from OAR 340-258-0110 through 340-258-0310 and may dispense nonoxygenated gasoline in control areas during control periods if fuel will not be used in motor vehicles, including but not limited to: Airports, marinas, saw shops, farms dispensing to farm equipment not used as a motor vehicle, and other facilities not dispensing fuel into motor vehicles.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0120 Sampling and Testing for Oxygen Content**

(1) To determine compliance with the requirements of OAR 340-258-0110 through 340-258-0310, the oxygen content of gasoline must be determined by:

(a) Sampling, using the sampling methods specified in **40 CFR 80, Appendix D**, as amended through July 1, 1991, the provisions of which are incorporated by reference in this rule, to obtain a representative sample of the gasoline to be tested;

(b) Testing, using the test method specified in **ASTM 4815-89** or other test methods determined by the Department and EPA as being equivalent, to determine the mass concentration of each oxygenate in the gasoline sampled; and

(c) Oxygen content calculations that are made as follows: Calculate the oxygen content of the gasoline sampled by multiplying the volume concentration of each oxygenate in the gasoline sampled by the oxygen molecular weight contribution of the oxygenate set forth in section (2) of this rule, with volume measurements adjusted to 60 degrees F.

(2) The oxygen molecular weight contributions of an oxygenate approved for use under OAR 340-258-0110 through 340-258-0310 are set out in **Table A**.

<b>TABLE A</b>		
<b>COMPARISON OF SPECIFIC GRAVITIES AND OXYGEN MASS FRACTION OF PURE OXYGENATES</b>		
	<b>Specific Gravity</b>	<b>Oxygen Mass</b>
	<b>60/60 F</b>	<b>Fraction</b>
Methyl Alcohol	0.7963	0.4993
Ethyl Alcohol	0.7939	0.3473
n-Propyl Alcohol	0.8080	0.2662
Isopropyl Alcohol	0.7899	0.2662
n-Butyl Alcohol	0.8137	0.2158
iso-Butyl Alcohol	0.8058	0.2158
sec-Butyl Alcohol	0.8114	0.2158
tertiary-Butyl Alcohol	0.7922	0.2158
Methyl tertiary-Butyl Ether	0.7460	0.1815
Ethyl tertiary-Butyl Ether	0.7452	0.1566
tertiary Amyl Methyl Ether	0.7752	0.1566

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0130 Compliance Options**

Each CAR or blender CAR must comply with applicable oxygen content standards set out in OAR 340-258-0140(1), 340-258-0150(1), and 340-258-0170 by means of either the per gallon compliance option established in OAR 340-258-0140 or the averaging method compliance option established in OAR 340-258-0150.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0140 Per Gallon Oxygen Content Standard**

(1) All gasoline sold or dispensed for use during the control period described in OAR 340-258-0110(2), for use in each control area described in OAR 340-204-0090, by each CAR or blender CAR using the Per Gallon Oxygen Content Standard Compliance Option, must be blended to contain not less than 2.7 percent oxygen by weight, except where otherwise required by OAR 340-258-0310. Oxygen content calculations must be performed as required in OAR 340-258-0120.



(2) Compliance calculation on a per gallon basis:

(a) Each gallon of gasoline sold or dispensed by a CAR or blender CAR for use within each control area during the control period shall have an oxygen content of at least 2.7 percent by weight, except where otherwise required by OAR 340-258-0310;

(b) In addition, the CAR or blender CAR is prohibited from selling or purchasing oxygen credits based on gasoline for which compliance is calculated under this alternative per gallon method.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0150 Average Oxygen Content Standard**

(1) All gasoline sold or dispensed for use during the control period described in OAR 340-258-0110(2), for use in each control area described in OAR 340-204-0090, by each CAR or blender CAR using the Average Oxygen Content Standard Compliance Option, must be blended for each averaging period to contain an average oxygen content of not less than 2.7 percent by weight, except where otherwise required by OAR 340-258-0310. Oxygen content calculations must be performed as required in OAR 340-258-0120.

(2) The averaging period for all gasoline sold or dispensed in a control area is the four-month control period established in OAR 340-258-0110(2).

(3) Compliance calculation on average basis:

(a) To determine compliance with the standards in section (1) of this rule, the CAR or blender CAR shall, for each averaging period and for each control area:

(A) Calculate the total volume of gasoline sold or dispensed for use in the control area which is the sum of:

(i) The volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed;

(ii) Minus the volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed in a different control area;

(iii) Minus the volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed in any non-control area.

(B) Calculate the required total oxygen credit units. Multiply the total volume in gallons of

oxygenated gasoline sold or dispensed into the control area (as determined by paragraph (3)(a)(A) of this rule) by 2.7 percent, except where otherwise required by OAR 340-258-0310;

(C) Calculate the actual total oxygen units generated. The actual total oxygen credit units generated is the sum of the volume of each batch or truck load of oxygenated gasoline that was sold or dispensed in the control area (as determined by paragraph (3)(a)(A) of this rule) multiplied by the actual oxygen content by weight associated with each batch or truck load;

(D) Calculate the adjusted actual total oxygen credit units. The adjusted actual total oxygen content credit units is the sum of the actual total oxygen credit units generated (as determined in paragraph (3)(a)(C) of this rule):

(i) Plus the total oxygen credit units purchased or acquired through trade; and

(ii) Minus the total oxygen credit units sold or given away through trade.

(E) Compare the adjusted actual total oxygen credit units with the required total oxygen credit units. If the adjusted actual total content oxygen credit units is greater than or equal to the required total oxygen credit units, then the standard in section (1) of this rule is met. If the adjusted actual total oxygen credit units is less than the required total oxygen credit units the purchase of oxygen credit units is required in order to achieve compliance;

(F) In transferring oxygen credit units, the transferor shall provide the transferee with the volume and oxygen content by weight of the gasoline associated with the credits.

(b) To determine the oxygen credit units associated with each batch or truck load of oxygenated gasoline sold or dispensed into the control area, use the running weighted oxygen content (RWOC) of the tank from which the batch or truck load was received at the time the batch or truck load was received. In the case of batches or truck loads of gasoline to which oxygenate is added outside of the terminal storage tank from which it was received, use the weighted average of the RWOC and the oxygen content added as a result of the volume of the additional oxygenate added;

(c) Running weighted oxygen content (RWOC). The RWOC accounts for the volume and oxygen content of all gasoline which enters or leaves the terminal storage tank, and all oxygenates which are added to the tank. The RWOC must be calculated each time gasoline enters or leaves the tank or whenever oxygenates are added to the tank. The RWOC is calculated weighing the following:

(A) The volume and oxygen content of the gasoline in the storage tank at the beginning of the

averaging period;

- (B) The volume and oxygen content by weight of gasoline entering the storage tank;
- (C) The volume and oxygen content by weight of gasoline leaving the storage tank; and
- (D) The volume, type and oxygen content by weight of the oxygenate added to the storage tank.

(d) Credit transfers. Credit transfer may be used in the compliance calculations in subsection (3)(a) of this rule, provided that:

- (A) The credits are generated in the same control area in which they are used; no credits may be transferred between control areas;
- (B) The credits are generated in the same averaging period as they are used;
- (C) The ownership of credits is transferred only between properly registered CARs or blender CARs;
- (D) The credit transfer agreement is made no later than 30 days after the final day of the averaging period in which the credits are generated; and
- (E) The credits are properly created.

(e) Improperly created credits:

(A) No party may transfer any credits to the extent that such a transfer would result in the transferor having a negative credit balance at the conclusion of the averaging period for which the credits were transferred. Any credits transferred in violation of this paragraph are improperly created credits;

(B) In the case of credits which were improperly created, the following subparagraphs apply:

- (i) Improperly created credits may not be used, regardless of a credit transferee's good faith belief that it was receiving valid credits;
- (ii) The transfer of credits in violation of paragraph (A) of this subsection constitutes a violation of the requirements of section (1) of this rule; and
- (iii) Where any credits are transferred in violation of paragraph (A) of this subsection, the

transferor's properly-created credits will be applied first to any credit transfers before the transferor may apply any credits to achieve its own compliance;

(iv) Where any credits are transferred in violation of paragraph (A) of this subsection, the transferor shall be held legally and financially liable for any penalties or damages incurred by the transferee as a result of the invalid transaction.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0160 Minimum Oxygen Content**

(1) Any gasoline sold or dispensed by a CAR or a blender CAR for use within a control area during the control period, must contain not less than the minimum percent oxygen by weight allowed in the Oxygen Content Standard listed below, except where otherwise required by OAR 340-258-0310:

(a) Minimum oxygen content when using the Per Gallon Oxygen Content Standard Compliance Option is 2.7 percent oxygen by weight, unless it is sold or dispensed to another registered CAR or blender CAR. This requirement begins no less than five working days before the control period and applies until the end of that period;

(b) Minimum oxygen content when using the Average Oxygen Content Standard Compliance Option is 2.0 percent oxygen by weight, unless it is sold or dispensed to another registered CAR or blender CAR. This requirement begins at least five working days before the control period and applies until the end of that period.

(2) The requirements of this rule apply to all persons downstream of the CAR. Any gasoline offered for sale, sold or dispensed to an ultimate consumer within a control area must contain not less than:

(a) 2.7 percent oxygen by weight when supplied by a CAR or blender CAR who uses the Per Gallon Oxygen Content Standard Compliance Option, except where otherwise required by OAR 340-258-0310. This requirement applies during the entire control period;

(b) 2.0 percent oxygen by weight when supplied by a CAR or blender CAR who uses the Average Oxygen Content Standard Compliance Option. This requirement applies during the entire control period.

(3) A refiner or importer shall determine the oxygen content of gasoline produced by use of an applicable method described in OAR 340-258-0130. This determination must include the percent oxygenate by weight, the type of oxygenate and percent by volume.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0170 Oxygenated Gasoline Blending**

(1) In addition to the other applicable requirements of OAR 340-258-0110 through 340-258-0310, no person may refine, distribute, blend, supply, sell, offer for sale or otherwise market any unleaded oxygenated gasoline for use in a motor vehicle unless that product:

(a) Has received a waiver from the U.S. Environmental Protection Agency (EPA) under **42 U.S.C. 7545(f)(4)**, as amended through November 15, 1990 and any amendments or modifications thereto; or

(b) Meets EPA's "substantially similar" ruling for a fuel or fuel additive used to certify a model year 1975 or newer vehicle or engine under **42 U.S.C. 7525** (Clean Air Act), as amended through November 15, 1990 and any amendments or modifications thereto.

(2) Only an oxygenate that is found to be acceptable under EPA's "substantially similar" ruling may be used in gasoline containing lead to meet the oxygenate requirements of OAR 340-258-0110 through 340-258-0310.

(3) The requirements of this rule do not affect the blending into leaded gasoline of a compound that does not require an EPA waiver or an EPA "substantially similar" ruling.

(4) Only those oxygenates and concentrations listed below and any gasoline designated by EPA as substantially similar are allowed:

(a) Blends of up to ten percent by volume anhydrous ethanol (200 proof) (commonly referred to as the "gasohol" waiver);

(b) Blends of methanol and gasoline grade tertiary butyl alcohol (GTBA) such that the total oxygen content does not exceed 3.5 percent by weight and the ratio of methanol to GTBA is less than or equal to one. It is also specified that this blended fuel must meet ASTM volatility specifications (commonly referred to as the "ARCO" waiver);

(c) Blends of up to 5.0 percent by volume methanol with a minimum of 2.5 percent by volume cosolvent alcohols having a carbon number of four or less (i.e., ethanol, propanol, butanol and/or GTBA). The total oxygen must not exceed 3.7 percent by weight, and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "DuPont" waiver);

(d) Blends up to 5.0 percent by volume methanol with a minimum of 2.5 percent by volume

cosolvent alcohols having a carbon number of eight or less. The total oxygen must not exceed 3.7 percent by weight and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the “Octamix” waiver);

(e) Blends up to 15.0 percent by volume methyl tertiary butyl ether (MTBE) which must meet the ASTM D4614 specifications. Blenders must take precautions that the blends are not used as base gasolines for other oxygenated blends (commonly referred to as the “Sun” waiver);

(f) Blends of aliphatic alcohols other than methanol and aliphatic ethers, provided the oxygen content does not exceed 2.7 percent by weight;

(g) Blends of methanol up to 0.3 percent by volume exclusive of other oxygenates;

(h) Blends up to 2.75 percent by volume methanol with an equal volume of butanol or alcohols of a higher molecular weight.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0180 Registration**

(1) At least 30 days before the control period in which a person meets the definition of CAR or blender CAR, that person shall petition for registration as a CAR or blender CAR. A person may petition for registration as a CAR or blender CAR after the beginning of the control period but should also do so at least 30 days before conducting activities as a CAR or blender CAR. A petition for registration must be on forms approved by, and available from the Department, and must include:

(a) The name and business address of the control area responsible party;

(b) The address and physical location of each of the control area terminals from which the control area responsible party operates;

(c) The address and physical location of each control area oxygenate blender facility which is owned, leased, operated, controlled or supervised by a blender CAR; and

(d) The address and physical location where documents required to be retained by this rule will be kept by the control area responsible party.

(2) Within 30 days after any occasion when the registration information previously supplied by a control area responsible party becomes incomplete or inaccurate, the CAR or blender CAR shall submit updated registration information to the Department.

(3) The Department will issue each CAR or blender CAR a unique identification number within 30 days after submission of a registration application to the Department. No person may participate in the averaging program under OAR 340-258-0150 as a CAR or blender CAR until the Department has issued notice that registration as a CAR or blender CAR has occurred, and a unique CAR identification number. Registration is valid for the time period specified by the Department.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0190 CAR, Distributor and Retail Outlet Operating Permits**

Each CAR, distributor and retail outlet supplying gasoline to a control area during a control period shall apply for and receive a permit as specified by OAR 340-258-0200.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0200 Owners of Gasoline at Terminals, Distributors and Retail Outlets Required to Have Indirect Source Operating Permits**

The owner of gasoline at any gasoline terminal, distributor or retail outlet (defined in OAR 340-258-0010) shall not supply gasoline to any oxygenated gasoline control area during the control period (defined in OAR 340-258-0010) without an approved Indirect Source Operating Permit issued by the Department or Regional Authority having jurisdiction:

(1) An Indirect Source Operating Permit must be renewed yearly, prior to supplying any gasoline to an oxygenated gasoline control area during the control period.

(2) Persons applying for an Indirect Source Operating Permit shall at the time of application pay the following fees:

(a) Gasoline Terminals — \$2,500;

(b) Gasoline Distributors — \$250.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0210 Recordkeeping**

(1) All persons in the gasoline distribution network shall maintain records containing the applicable compliance information described in this rule. The records must be kept by the regulated persons for at least two years:

(2) Refiners and importers shall, for each separate quantity of gasoline produced or imported for

use in a control area during the control period, maintain records containing results of any tests needed to determine the types of oxygenates and percentage by volume:

- (a) Oxygenate type;
  - (b) Oxygenate content by volume;
  - (c) Oxygen content by weight;
  - (d) Total volume; and
  - (e) Name and address of the party to whom each separate quantity of gasoline was sold or transferred.
- (3) A person who owns, leases, operates or controls a gasoline terminal that serves a control area shall maintain records containing:
- (a) The name and address of the owner of each batch of gasoline handled during the control period;
  - (b) The volume of each batch or truck load of gasoline going into or out of the terminal;
  - (c) The RWOC of all batches or truck loads of gasoline leaving the terminal;
  - (d) The type of oxygenate, purity and percentage by volume if available;
  - (e) The oxygen content by weight of all batches or truck loads received at the terminal;
  - (f) Information of each tank truck sale or batch of gasoline, as to whether it was designated for use within a control area or not;
  - (g) The name and address of the person to whom the gasoline was sold or transferred and the date of the sale or transfer; and
  - (h) Results of the tests for oxygenates, if performed, of each sale or transfer and who performed the tests.
- (4) CARs and blender CARs must maintain records containing the information listed in section (3) of this rule, plus the following information:



- (a) CAR or blender CAR identification number;
- (b) Records supporting and demonstrating compliance with the Per Gallon Oxygen Content Standard listed in OAR 340-258-0140; or
- (c) Records supporting and demonstrating compliance with the Average Oxygen Content Standard listed in OAR 340-258-0150:
  - (A) For any credits bought, sold, traded or transferred, the date of each transaction, the name, address and CAR or blender CAR number of the CAR or blender CAR involved in each transaction, and the amount of credit units (oxygen content and volume of gasoline) transferred; credit units transferred must be accompanied by a demonstration of how those credits were calculated, including adequate documentation that both parties have agreed to all credit transactions;
  - (B) The name and address of the auditor, and the results of the attest engagement conducted under OAR 340-258-0290;
  - (C) The name and address of the person from whom each shipment of gasoline was received, and the date when it was received;
  - (D) Data on each shipment of gasoline received, including:
    - (i) The volume of each shipment;
    - (ii) The type of oxygenate, purity and percentage by volume; and
    - (iii) Oxygen content by weight.
  - (E) The volume of each receipt of bulk oxygenates;
  - (F) The name and address of the persons from whom bulk oxygenates was received;
  - (G) The date and destination of each sale of gasoline, whether it was intended for use within a control area or not;
  - (H) Data on each shipment of gasoline sold or dispensed including:
    - (i) The volume of each shipment;
    - (ii) The type of oxygenate, purity and percentage by volume; and

(iii) Oxygen content by weight.

(I) Documentation of the results of all required tests done regarding the oxygen content of the gasoline; and

(J) The names, addresses and CAR or blender CAR identification numbers of the persons to whom any gasoline was sold or dispensed, and the dates of each transaction.

(5) Retailers and wholesale purchaser-consumers within a control area shall maintain the following records which shall be available for Department inspection upon request:

(a) The names, addresses and CAR or blender CAR identification number of each person from whom a shipment of gasoline was purchased or received, and the date when each shipment was received; and

(b) Data on each shipment bought, sold or transported including:

(A) The volume of each shipment;

(B) The type of oxygenate, purity and percentage by volume;

(C) Oxygen content by weight.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0220 Reporting**

(1) Each CAR or blender CAR shall submit a report for each control period defined in OAR 340-258-0110(2), reflecting the compliance information detailed in OAR 340-258-0140 or 340-258-0150, as applicable. Reports are due to the Department on the 30th day of the month following the close of the control period for which the information is required. Reports must be filed on forms provided by the Department.

(2) If the CO Contingency Provision, as specified in OAR 340-258-0310, is triggered, each CAR or blender CAR shall submit the information described in section (1) of this rule after the first half of the control period and at the end of the control period. Reports are due to the Department on the 30th day of the month following the end of each two month segment of the control period.

(3) Each time that physical custody or title of gasoline destined for a control area is transferred, except when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility, the transferor shall provide to the transferee, in addition to, or as

part of, normal bills of lading or invoices, a transfer document containing information on the shipment. The transfer document must accompany every shipment of gasoline to a control area after it has been dispensed by a terminal, or the information must be included in the normal paperwork that accompanies each shipment of gasoline. The information must legibly and conspicuously contain the following information:

- (a) The date of the transfer;
- (b) The name, address and CAR or blender CAR identification number, if applicable of the transferor;
- (c) The name, address and CAR or blender CAR identification number, if applicable, of the transferee;
- (d) The volume of gasoline being transferred;
- (e) The proper identification of the gasoline as nonoxygenated or oxygenated;
- (f) The location of the gasoline at the time of the transfer;
- (g) The type of oxygenate and purity;
- (h) The percentage by volume, to the nearest 0.1 percent, of oxygenate in the fuel; and
- (i) For gasoline in the gasoline distribution network between the refinery or import facility and the covered area terminal, the oxygen content by weight and the oxygenate volume of the gasoline.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0230 Prohibited Activities**

(1) During the control period, no refiner, importer, oxygenate blender, carrier, distributor or reseller may manufacture, sell, offer for sale, dispense, supply, offer for supply, store, transport or cause the transportation of:

- (a) Gasoline that contains less than 2.0 percent oxygen by weight, for use during the control period, in a control area; or
- (b) Gasoline represented as oxygenated which has an oxygen content that is improperly stated in the documents that accompany the gasoline.

(2) No retailer or wholesale purchaser-consumer may dispense, offer for sale, sell, or store, for use during the control period, gasoline that contains less than 2.7 percent oxygen by weight in a control area when supplied by a CAR using the Per Gallon Oxygen Content Standard or less than 2.0 percent oxygen by weight in a control area when supplied by a CAR using the Average Oxygen Content Standard.

(3) No person may operate as, or claim to be a CAR or blender CAR unless that person is registered by the Department under OAR 340-252-0180. No CAR or blender CAR may offer for sale, store, sell or dispense gasoline to any person who is not registered as a CAR for use in a control area, unless:

(a) The oxygen content of the gasoline during the control period or averaging period meets the standard set in OAR 340-258-0140 or 340-258-0150, and OAR 340-258-0160, as applicable; and

(b) The gasoline contains at least:

(A) 2.7 percent oxygen by weight when the Per Gallon Oxygen Content Standard is used, except as required by OAR 340-258-0310;

(B) 2.0 percent oxygen by weight when the Average Oxygen Content Standard is used.

(4) For a terminal that sells or dispenses gasoline intended for use in a control area during the control period, the terminal owner or operator may not accept gasoline into the terminal unless:

(a) Transfer documentation accompanies it containing information required by OAR 340-258-0220(3); and

(b) The terminal owner or operator conducts a quality assurance program to verify the accuracy of the information referred to in subsection (a) of this section.

(5) No person may sell, store or dispense nonoxygenated gasoline in any control area during the control period unless:

(a) The nonoxygenated gasoline is segregated from oxygenated gasoline;

(b) Clearly marked documents accompany the nonoxygenated gasoline marking it as **“nonoxygenated gasoline, not for sale to an ultimate consumer in a control area”**; and

(c) The nonoxygenated gasoline is in fact not sold or dispensed to ultimate consumers during the control period, in the control area.

(6) No person subject to the requirements of OAR 340-258-0110 through 340-258-0310 may fail to comply with the requirements of OAR 340-258-0110 through 340-258-0310.

(7) No person may sell, store, dispense, or transfer oxygenated gasoline, except for use by the ultimate consumer at a retail outlet or wholesale purchaser-consumer facility, without transfer documents that accurately contain the information required by OAR 340-258-0220(3).

(8) Any CAR, distributor or retail outlet that does not have a valid terminal permit may not market gasoline for use in a control area during the control period unless a prior owner of the gasoline has a valid terminal permit as required by OAR 340-258-0200.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0240 Inspection and Sampling**

With consent of the owner or operator, the Department will, at any reasonable time, enter the premises of any person subject to the requirements of OAR 340-258-0110 through 340-258-0310 to determine compliance. The Department will inspect all relevant records and equipment, and will, in its discretion, purchase gasoline samples for testing by the Department.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0250 Liability for Violation of a Prohibited Activity**

(1) Subject to OAR 340-258-0260, if gasoline contained in a storage tank at a facility owned, leased, operated, controlled or supervised by a retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender is found to be in violation of OAR 340-258-0230(1)(a) or (2), the following persons will be considered in violation:

(a) The retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender who owns, leases, operates, controls or supervises the facility where the violation is found; and

(b) Each oxygenate blender, distributor, reseller and carrier who, downstream of the control area terminal, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported or caused the transportation of gasoline that is in the storage tank containing gasoline found to be in violation.

(2) Subject to OAR 340-258-0260, if gasoline contained in a storage tank at a facility owned, leased, operated, controlled or supervised by a retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender is found to be in violation of OAR 340-258-0230(1)(b) or (2), the following persons will be considered in violation:

(a) The retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender who owns, leases, operates, controls or supervises the facility where the violation is found; and

(b) Each refiner, importer, oxygenate blender, distributor, reseller and carrier who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported or caused the transportation of gasoline that is in the storage tank containing gasoline found to be in violation.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0260 Defenses for Prohibited Activities**

(1) A refiner, importer, oxygenate blender, distributor, reseller or carrier is considered to be in violation of OAR 340-258-0230(1) unless that person demonstrates that:

(a) The violation was not caused by the regulated person or that person's employee or agent;

(b) The person possesses documents that should accompany the gasoline, and that contain the information required by OAR 340-258-0220;

(c) The person conducts a quality assurance sampling and testing program as described in OAR 340-258-0280; and

(2) A refiner, importer, oxygenate blender, distributor, reseller or carrier is considered to be in violation of OAR 340-258-0230(5) unless that person demonstrates that:

(a) The product is clearly labeled as "**blendstock/export/storage**" and the evidence supports this classification;

(b) The accompanying documents clearly state that the product does not comply with the oxygenated gasoline requirements;

(c) Some aspect of the product's quality supports the party's claim that the product was intended to be further blended before being sold, supplied, etc., as a finished product;

(d) The seller, supplier or transporter of the product has obtained a written certification or notice on shipping documents from the buyer/recipient of the product that the buyer/recipient understands that the product is not intended for sale or distribution as finished gasoline in a control area or until:

(A) It is blended to meet the oxygenated gasoline requirements of OAR 340-258-0110 through 340-258-0310; or

(B) The buyer/recipient receives equivalent certification from a subsequent buyer or obtains a written certification that the gasoline will not be sold or dispensed for use within a control area; and

(e) The party has no knowledge or reason to believe that the product will not be further blended to comply with the standards of OAR 340-258-0140 or 340-258-0150, and 340-258-0160 before being sold, supplied or transported as finished product, or that it would be sold or dispensed without further blending within a control area.

(3) A retailer or wholesale purchaser-consumer is considered to be in violation of OAR 340-258-0230(2) unless that person demonstrates that:

(a) The violation was not caused by the regulated person or that person's employee or agent;

(b) The person possesses documents that should accompany the gasoline, and that contain the information required by OAR 340-258-0220.

(4) For purposes of this rule, the term "was caused" means that the person must demonstrate by a preponderance of the evidence through reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340258-0270 Inability to Produce Conforming Gasoline Due to Extraordinary Circumstances**

The Department will allow a person to distribute fuel which does not meet the oxygenated gasoline requirements of OAR 340-258-0110 through 340-258-0310 in appropriate extreme and unusual circumstances which are clearly outside the control of the blender CAR and which could not have been avoided by the exercise of prudence, diligence and due care if:

(1) It is in the public interest to do so because distribution of the nonconforming fuel is necessary to meet projected shortfalls which cannot otherwise be compensated for;

(2) The blender CAR exercised prudent planning and was not able to avoid the violation and has taken all reasonable steps to minimize the extent of the nonconformity;

(3) The blender CAR can show how the requirements for oxygenated gasoline will be expeditiously achieved; and

(4) The blender CAR agrees to make up the air quality detriment associated with the nonconforming gasoline, where practicable.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0280 Quality Assurance Program**

To demonstrate an acceptable quality assurance program under this rule, a person shall conduct periodic sampling and testing to determine if the oxygenated gasoline has oxygen content that is consistent with the product transfer documentation.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0290 Attest Engagements Guidelines When Prohibited Activities Alleged**

(1) The Department will not require a CAR or blender CAR to submit attest engagement reports except as an optional defense for any alleged violations of OAR 340-258-0110 through 340-258-0310.

(2) The attest engagement shall consist of performing the agreed-upon procedures set forth in the guidelines in accordance with the Association of Independent Certified Public Accountants' (AICPA's) statements on standards for Attestation Engagements and using statistical sample design parameters provided by EPA.

(3) In performing the attest engagement, the CPA shall determine the sample size for each population according to parameters set out in **Table B**.

#### **TABLE B**

##### **Number in Population (N) — Sample Size**

66 or larger — 59

41 - 65 — 41

26 - 40 — 31

0 - 25 — N or 24, whichever is smaller

(4) The number of populations from which samples should be drawn will vary depending on the circumstances. Sample items should be selected in such a way that the sample can be expected to be representative of the population.

(5) If the CPA agrees to use some other form of sample selection and some other method to determine the sample size, that agreement should be summarized in the CPA's report.



(6) The attest engagement shall be conducted by an independent Certified Public Accountant (CPA).

(7) The CPA is required to comply with the general code of conduct and ethics as prescribed by the State of Oregon and by the AICPA.

(8) The attest engagement shall include the following agreed-upon procedures, as appropriate, for the CAR's standardized reporting form(s):

(a) Read the report completed by management and filed with the Department;

(b) Obtain from the CAR an inventory reconciliation summarizing receipts and deliveries of all gasoline, gasoline blendstocks, and oxygenates for CARs serving a control area:

(A) Test mathematical accuracy of inventory reconciliation;

(B) Agree beginning and ending inventory amounts to company's perpetual inventory records;

(C) Agree deliveries into the control area to Department report, if applicable.

(c) Obtain listing of all gasoline, gasoline blendstocks, and oxygenate receipts during the period:

(A) Test mathematical accuracy of listing;

(B) Agree amounts to inventory reconciliation;

(C) Select a representative sample of individual receipts of gasoline, gasoline blendstocks, and oxygenates and trace details back to source documents.

(d) Obtain listing of all gasoline, gasoline blendstocks, and oxygenates sold or dispensed during the period:

(A) Test mathematical accuracy of listing;

(B) Agree amounts to inventory reconciliation report;

(C) Select a representative sample of individual batches sold or dispensed both into and outside the control area:

- (i) Agree volumes for the sample items to original bill of lading or other source documents;
- (ii) For sales or deliveries into the control area, determine that oxygenate content is at least two percent by examining bills of lading.
- (e) Using the volume of oxygenated gasoline sold or dispensed into the control area from the inventory reconciliation report, recalculate the number of oxygen content units required by multiplying by 2.7 percent, except where otherwise specified in OAR 340-258-0310, and agree to Department report;
- (f) Recalculate the actual total oxygen credit units generated by adding the oxygen content of each batch or truck load of oxygenated gasoline that was sold or dispensed in the control area as determined in subsection (8)(e) of this rule multiplied by the actual oxygen content by weight associated with each batch or truck load;
- (g) Recalculate the adjusted actual total oxygen credit units as follows:
  - (A) The actual total oxygen credit units generated from subsection (8)(f) of this rule;
  - (B) Plus the total oxygen credit units purchased or acquired through trade; and
  - (C) Minus the total oxygen credit units sold or given away through trade.
- (h) The following steps apply to the testing of the actual total oxygen content from subsection (8)(f) of this rule and are applicable based on method of blending:
  - (A) For CARs using rack- and truck-blending, recompute oxygen content by weight for a representative sample of deliveries based on detailed meter readings of gasoline, blendstocks and oxygenate receipts;
  - (B) For CARs using in-tank blending of gasoline, blendstocks and oxygenates, obtain register of running weighted oxygen content by tank and:
    - (i) Using the individual sample items from subsections (8)(c) and (d) of this rule test calculation of running totals;
    - (ii) Where laboratory analysis is used with the CARs weighted average calculation, select individual analysis reports of oxygenated gasoline receipts and deliveries during the period on a representative sample basis;

(I) Review laboratory results for consistency with CAR's calculations noting oxygen volume and specific gravity;

(II) Recalculate oxygen by weight;

(III) Agree information on lab reports to underlying delivery and receiving documentation.

(i) Obtain register of oxygen credit unit purchases and sales and select separate representative samples of individual purchased credits and individual sales credits:

(A) Agree selected credit unit transactions to the underlying contract and/or other supporting documentation noting specific volumes and oxygen content of the gasoline associated with the credits;

(B) Agree to the underlying contract and/or supporting documentation that the credits are generated in the same control areas as they are used. For example, no credits may be transferred between control areas;

(C) Agree to the underlying contract and/or supporting documentation that the credits are generated in the same averaging period as they are used;

(D) Agree to the underlying contract and/or supporting documentation that the ownership of credits is transferred only between CARs;

(E) Agree to the underlying contract and/or supporting documentation that the credit transfer agreement was made no later than 30 days after the final day of the averaging period in which the credits are generated.

(j) Prepare a report to client in accordance with the report provisions of Statements on Standards for Attestation Engagements indicating results of performing the above procedures.

(9) The attestation report must be in compliance with the AICPA's Statement on Standards for Attestation Engagements.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0300 Dispenser Labeling**

(1) A person who sells or markets oxygenated gasoline at retail, or who otherwise provides oxygenated gasoline for consumption by an ultimate consumer, shall place two labels on a dispenser used to dispense the gasoline to identify the oxygenate in the fuel, using the following

criteria:

(a) The first label must include the following statement: **“The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles”**;

(b) The second label must contain the type of oxygenate(s) and the exact (plus or minus 0.5 percent) or maximum use concentration by volume. Only those oxygenates and concentrations listed below and any gasoline designated by EPA as substantially similar are allowed.

[**NOTE:** This applies only to the Department rules and dispenser is still responsible for complying with the disclosure requirements of ORS 646.915.]

(c) Lettering on the label must be legible and in block style of at least 20 point bold type;

(d) The lettering on the label shall be in a color contrasting to the intended background;

(e) The label must be placed on each side of the dispenser from which the gasoline can be dispensed and shall be on the upper one half of the dispenser, in a position that will be clear and conspicuous to the consumer.

(2) A person who pursuant to OAR 340-258-0110(7) dispenses nonoxygenated gasoline in a control area during the control period at a site where motor vehicles may have access must display a label in accordance to the standards above containing the following information: **“This fuel is not oxygenated to State of Oregon standards and may not be dispensed into motor vehicles”**.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-258-0310 Contingency Provision for Carbon Monoxide Nonattainment Areas**

(1) Subsections (a), (b), (c) and (d) of this section apply to OAR 340-258-0100 through 340-258-0300:

(a) Upon determination by the Department, or written notification to the Department by the EPA Administrator that a carbon monoxide nonattainment area in a control area, as specified in OAR 340-204-0090, fails to meet an applicable Clean Air Act deadline for attainment of the NAAQS for carbon monoxide, the following provisions shall become applicable in such control areas within eight months of written notification by the Department or the EPA Administrator, whichever is sooner:

(A) Oxygenates shall be supplied at maximum EPA approved oxygen content levels during the control period (e.g., 3.5 percent for gasoline oxygenated with ethanol and 2.7 percent for gasoline oxygenated with MTBE);

(B) Compliance calculations shall be based on the per gallon oxygen content supplied by each CAR or blender CAR during the control period.

(b) At the end of each control period during which fuel meeting requirements of subsection (1)(a) of this rule is supplied, the Department will evaluate control area oxygenate mix information which is submitted by CARs and blender CARs in accordance with OAR 340-258-0220. If the Department projects, based on this data, that the average oxygen content of gasoline supplied in a control area will be less than 3.1 percent in the next control season, the Department shall notify affected parties no later than March 1 and the following additional requirements shall become effective in subsequent control periods:

(A) The average oxygen content standard of gasoline for CARs or blender CARs using the Average Oxygen Content Standard Compliance Option, shall be increased to a minimum of 2.9 percent;

(B) The oxygen content standard of gasoline for CARs and blender CARs using the Per Gallon Oxygen Content Standard Compliance Option, shall be increased to a minimum of 2.9 percent;

(C) Compliance calculations and the calculation of oxygen credit units, where applicable, shall be based on an oxygen content of 2.9 percent.

(c) Federal standards for percent by volume oxygenate content may not be exceeded and shall not be affected by any requirement under section (1) of this rule;

(d) This rule shall be applicable during the control period specified in OAR 340-258-0110(2).

**NOTE:** OARs affected by this provision include: OAR 340-258-0010, 340-258-0140(1) and (2); 340-258-0150(1) and (3)(a)(B), 340-258-0160(1)(a) and (2)(a), 340-258-0220, 340-258-0230(3)(b)(A), and 340-258-0290(8)(e).

(2) The Department may propose to the Environmental Quality Commission the adoption of an equivalent alternative program to achieve necessary carbon monoxide emission reductions as a substitute for measures outlined in subsection (1)(a) of this rule. An alternative carbon monoxide contingency plan which is adopted by the Commission shall not become effective until approved by the EPA as a SIP revision.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

## STANDARD FOR AUTOMOTIVE GASOLINE

### **340-258-0400 Reid Vapor Pressure for Gasoline**

(1) No person shall sell or supply as a fuel for motor vehicles any gasoline which does not comply with the requirements of 40 CFR 80.

(2) The Reid Vapor Pressure of gasoline sold or supplied, by bulk gasoline terminals and gasoline refiners, as fuel for motor vehicles shall be measured according to the procedures established in the most current method of **ASTM D323**:

(a) The geographic coverage of this section shall be consistent with boundary specified in **ASTM D439**, specifically all of Oregon, west of 122 degrees Longitude;

(b) Test results from samples submitted to the Department by refiners or distributors of gasoline shall be sampled and tested pursuant to methods established by the most current method of **ASTM D323**. Analysis of all fuel from pipeline, tanker, or other sources outside of the state shall be summarized and forwarded to the Department on a monthly basis. Such reports will be supplied on a form supplied by the Department;

(c) The Department reserves the right to audit records and to sample gasoline for the purposes of compliance. Samples of petroleum shall be sampled pursuant and tested by methods established by the most current method of **ASTM D323** or by methods established under the California Air Resources rule, **Title 13, §2251** or **Part 80 of Title 40 of the Code of Federal Regulations — Fuel and Fuel Additives**.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

## **DIVISION 262**

### **HEAT SMART PROGRAM FOR RESIDENTIAL WOODSTOVES AND OTHER SOLID FUEL HEATING DEVICES**

#### **340-262-0400 Purpose and Applicability of Rules**

(1) The State of Oregon promotes the use of cleaner solid fuel burning devices to reduce smoke created from wood heating and other solid fuels. Smoke from wood burning can be a significant source of air pollution and can have serious health consequences for people with asthma, respiratory or heart conditions or other illnesses. Children and the elderly are especially at risk.

(2) This Division regulates the sale and use of residential and commercial solid fuel burning devices to implement Oregon's air quality regulations for public health and safety.

(3) Subject to the requirements in this Division and ORS 468A.100 through 468A.180, the Lane

Regional Air Protection Agency is designated by the Environmental Quality Commission as the agency responsible for implementing this Division within its area of jurisdiction. The Regional Agency must implement the requirements and procedures contained in this Division unless the Regional Agency adopts superseding rules at least as restrictive as this Division.

*State effective: 3/15/2011; EPA approval: 6/20/2013, 78 FR 37124; EPA effective: 7/22/2013*

### **340-262-0450 Definitions**

The definitions in OAR 340-200-0020 and this rule apply to this division. If OAR 340-0200-0020 and this rule define the same term, the definition in this rule applies to this division.

- (1) "Antique woodstove" means a woodstove built before 1940 that has an ornate construction and a current market value substantially higher than a common woodstove manufactured during the same period.
- (2) "Central wood-fired furnace" means an indoor, wood-fired furnace that is thermostatically controlled, has a dedicated cold air inlet and dedicated hot air outlet, and is connected to heating ductwork for the entire residential structure.
- (3) "CFR" means Code of Federal Regulations.
- (4) "Consumer" means a person who buys a solid fuel burning device for personal use.
- (5) "Cookstove" means an indoor wood-burning appliance designed for the primary purpose of cooking food.
- (6) "Dealer" means a person that sells solid fuel burning devices to retailers or other dealers for resale. For the purpose of this Division, a dealer that is also an Oregon retailer will be considered to be only a retailer.
- (7) "DEQ" means Oregon Department of Environmental Quality.
- (8) "Destroy" means to demolish or decommission to the extent that restoration or reuse as a heating device is impossible.
- (9) "EPA" means United States Environmental Protection Agency.
- (10) "EQC" means Environmental Quality Commission
- (11) "Federal Regulations" means 40 CFR, part 60 subpart AAA as in effect on July 1, 2010.
- (12) "Fireplace" means a site-built or factory-built masonry fireplace that is designed to be used with an open combustion chamber and that is without features to control air-to-fuel ratios.
- (13) "Hydronic heater" means a fuel-burning device which may be equipped with a heat storage unit, and which is designed to:

(a) Burn wood or other automatically fed fuels such as wood pellets, shelled corn, and wood chips;

(b) Be installed according to the manufacturer's specifications either indoors or outdoors; and

(c) Heat building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

(14) "Manufacturer" means a person who designs a solid fuel burning device, constructs a solid fuel burning device or constructs parts for solid fuel burning devices.

(15) "Masonry heater" means a site-built or site-assembled, solid fueled heating device constructed of structural masonry mass used to store heat from intermittent fires burned rapidly in the structure's firebox and slow release the heat to the site. Such solid-fueled heating device must meet the design and construction specifications set forth in ASTM E 1602-03, "Guide for Construction of Solid Fuel Burning Masonry Heaters."

(16) "New solid fuel burning device" or "new device" means a solid fuel burning device defined under ORS 468A.485(4)(a) that has not been sold, bargained, exchanged, given away, acquired secondhand, or otherwise had its ownership transferred from the person who first acquired it from a retailer.

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

(18) "PM2.5" means particulate matter less than 2.5 microns.

(19) "Pellet stove" means a heating device that uses wood pellets, or other biomass fuels designed for use in pellet stoves, as its primary source of fuel.

(20) "Phase 1 emission level qualified model" is a model of a hydronic heater that achieves an average emission level of 0.60 lbs/million Btu heat input or less for all fuel types listed in the owner's manual and/or mentioned in marketing/sales materials, as acknowledged by EPA in writing to the manufacturer as part of EPA's acceptance of the model as a qualified model.

(21) "Phase 2 emission level qualified model" is a model of a hydronic heater that achieves an average emissions level of 0.32 lbs/million Btu heat output or less for all fuel types listed in the owner's manual and/or mentioned in marketing/sales materials, and that did not exceed 18.0 grams/hr of fine particles in any individual test run that was used in the calculation of the average, as acknowledged by EPA in writing to the manufacturer as part of EPA's acceptance of the model as a qualified model pursuant to the EPA Hydronic Heater Program Phase 2 Partnership Agreement.

(22) "Residential structure" has the meaning given that term in ORS 701.005.



(23) "Retailer" means a person engaged in the sale of solid fuel burning devices directly to consumers.

(24) "Solid fuel burning device" or "device" means a woodstove or any other device that burns wood, coal or other nongaseous or non-liquid fuels for aesthetic, space-heating or water-heating purposes in or for a private residential structure or a commercial establishment and that has a heat output of less than one million British thermal units per hour. Solid fuel burning device does not include:

(a) Fireplaces;

(b) Antique stoves;

(c) Pellet stoves;

(d) Masonry heaters;

(e) Central, wood-fired furnaces;

(f) Saunas; and

(g) Boilers providing process heat to a commercial, industrial, or institutional establishment that obtain construction approval under OAR 340-210-0205 through 340-210-0250.

(25) "Trash burner" means any equipment that is used to dispose of waste by burning and has not been issued an air quality permit under ORS 468A.040.

(26) "Treated wood" means wood of any species that has been chemically impregnated, painted or similarly modified to prevent weathering and deterioration.

(27) "Used solid fuel burning device" or "used device" means a solid fuel burning device that has been sold, bargained, exchanged, given away, or otherwise has had its ownership transferred.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-262-0500 Certification of Solid Fuel Burning Devices for Sale as New**

(1) By order, the department may certify solid fuel burning devices that have been certified by the United States Environmental Protection Agency as meeting EPA emission performance standards and certification labeling standards pursuant to:

(a) 40 CFR part 60, subpart AAA, as in effect on July 1, 2010; or

(b) Any equivalent or more stringent standard adopted by the United States Environmental Protection Agency subsequent to July 1, 2010.

(2) By order, the department may certify solid fuel burning devices that have not been certified by the United States Environmental Protection Agency, but that were previously certified by the department as meeting emission performance standards and certification labeling standards on or after July 1, 1986 pursuant to ORS 468A.480.

(3) By order, the department may certify any hydronic heater that has been accepted by EPA as a Phase 1 or Phase 2 emission level qualified model pursuant to the EPA Hydronic Heater Program, and that meets the requirements of subsections (a) and (b) below:

(a) The hydronic heater must have a permanent "qualifying label" attached that meets the requirements of the EPA Hydronic Heater Program Phase 2 Partnership Agreement or similar agreement for the EPA Phase 1 program; and

(b) The hydronic heater must have been installed by March 1, 2011, and the owner of the hydronic heater must confirm notice of installation to the department, on a department provided form, by July 1, 2011.

(4) By order, the department may certify solid fuel burning devices that have been tested using a test method that is equivalent to the test methods in 40 CFR part 60, subpart AAA as in effect on July 1, 2010, if:

(a) Testing is done by a method that has been determined to be equivalent by DEQ; and

(b) The test results show the solid fuel burning device emits no more than 7.5 g/hr.

(5) The department shall maintain a list of all devices certified pursuant to this rule.

*State effective: 3/15/2011; EPA approval: 6/20/2013, 78 FR 37124; EPA effective: 7/22/2013*

### **340-262-0600 New and Used Solid Fuel Burning Devices Sold in Oregon**

(1) No person may advertise to sell, offer to sell or sell a new or used solid fuel burning device in Oregon unless:

(a) The device has been certified for sale as new by DEQ pursuant to OAR 340-262-0500, or by EPA pursuant to 40 CFR part 60, subpart AAA; and

(b) The device is permanently labeled as certified, or in the case of a hydronic heater is permanently labeled as a Phase 1 or Phase 2 emission level qualified model, with a label authorized by DEQ or EPA.

(2) Exempt devices. Cookstoves are exempt from this rule in addition to those devices that are

not considered solid fuel burning devices as defined in OAR 340-262-0450(24).

(3) Exempt consumer transactions. Consumer transactions are exempt from this rule, if the consumer:

(a) Sells a used solid fuel burning device to a person in the business of reusing, reclaiming or recycling scrap metal and the person destroys the device; or

(b) Remits a used device to a retailer for a price reduction on a new residential heating system.

(4) Prohibited label alteration. No person may alter DEQ or EPA authorized labels.

*State effective: 5/17/2012; EPA approval: 6/20/2013, 78 FR 37124; EPA effective: 7/22/2013*

### **340-262-0700 Removal and Destruction of Used Solid Fuel Burning Devices**

(1) Unless exempt under section (4), when a residential structure is sold in Oregon, all used solid fuel burning devices must be removed and destroyed if the devices were not certified for sale as new by DEQ or EPA and are not permanently labeled as certified, or in the case of a hydronic heater is permanently labeled as a Phase 1 or Phase 2 emission level qualified model, with a label authorized by DEQ or EPA.

(2) The removal and destruction of a used solid fuel burning device is the responsibility of the seller of the residential structure, unless the seller and buyer agree in writing that it is the buyer's responsibility. If the seller retains responsibility, the seller shall remove and destroy the device prior to the closing date of the sale of the residential structure. If the buyer accepts responsibility, the buyer shall remove and destroy the device within 30 days after the closing date of the sale of the residential structure.

(3) The seller or buyer, as determined pursuant to sections (1) and (2), must:

(a) Remove all used solid fuel burning devices on the real property sold with the residential structure, including but not limited to devices in a residence, garage, workshop, outbuilding, or any other structure.

(b) Destroy all used solid fuel burning devices, pursuant to the definition of "destroy" in OAR 340-262-0450, by taking them to a facility or entity that will render the devices incapable of being used as heating devices.

(c) Obtain a receipt from the place of destruction that verifies the delivery of all used solid fuel burning devices. The receipt must include:

- (A) Date of delivery to place of destruction;
- (B) Name and address for the place of destruction; and
- (C) Description of all used solid fuel burning devices delivered for destruction.
- (d) Notify DEQ of the removal and destruction of all used solid fuel burning devices on DEQ issued paper or electronic forms. The forms will require the following information:

- (A) Name, current mailing address, and phone number of the person removing the stove;
- (B) Address and tax lot number of the residential structure being sold;
- (C) Closing date of sale of the residential structure if the buyer is the responsible party, or the estimated closing date of sale if the seller is the responsible party;
- (D) The receipt or receipt information obtained under subsection (3)(c); and
- (E) A signed statement certifying that the information is accurate to the best of the certifying individual's knowledge.

(4) **Exemptions.** The following are exempt from removal and destruction pursuant to this rule:

- (a) Fireplaces;
- (b) Cookstoves;
- (c) Antique woodstoves;
- (d) Pellet stoves;
- (e) Masonry heaters;
- (f) Central wood-fired furnaces; and
- (g) Saunas.

*State effective: 3/15/2011; EPA approval: 6/20/2013, 78 FR 37124; EPA effective: 7/22/2013*

### **340-262-0800 Wood Burning and Other Heating Devices Curtailment Program**

- (1) Applicability.

(a) The wood burning and other heating devices curtailment program applies to any portion of the state where required as an emission reduction strategy or contingency plan for PM10 or PM2.5 nonattainment or maintenance areas as an element of the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-200-0040.

(b) If a local government or regional authority has not adopted or is not adequately implementing a curtailment program in any area of the state where such a program is required, the Department will operate and enforce a program to curtail solid fuel heating during periods of air stagnation.

(c) To determine whether a local government or regional authority has failed to adopt or adequately implement a curtailment program, the Department shall consider whether a local government or regional authority:

(B) Has adopted an ordinance that requires the curtailment of solid fuel heating at forecasted air pollution levels which are consistent with the curtailment conditions and requirements specified in sections (3) and (4);

(C) Is issuing on a daily basis, curtailment advisories to the public consistent with section (5); and

(D) Is conducting surveillance for compliance and is taking adequate enforcement actions consistent with sections (6) to (8).

(2) Exempt from this rule. Curtailed heating under this rule does not apply to:

(a) Solid fuel burning devices or other solid fuel heating operated within a household classified to be less than or equal to 125 percent of the current federal poverty income guidelines accessible through the Oregon Center for Public Policy;

(b) Solid fuel burning devices operated in a residence where the solid fuel burning device is the sole heating source; and

(c) Pellet stoves, unless the pellet stove is located in a nonattainment area in this state that does not attain compliance with standards for particulate matter established by the commission pursuant to ORS 468A.025.

(3) Air stagnation levels. DEQ or DEQ's representative must use appropriate data and technology to establish the air stagnation levels used to curtail burning in PM10 or PM2.5 nonattainment areas. The program must designate a:

(a) *Stage I advisory* when the PM10 or PM2.5 standard is being approached; and

(b) *Stage II advisory* when an exceedance of the PM10 or PM2.5 standard is forecast as imminent.

(4) Curtailed burning. Unless exempt under section (2), the wood burning curtailment program prohibits operation of:

(a) All heating by means of solid fuel, including but not limited to solid fuel burning devices, fireplaces, masonry heaters, pellet stoves, trash burners and all devices described in ORS 468A.485(4)(b), that were not certified for sale as new by DEQ or EPA, during a designated Stage I advisory when the PM10 or PM2.5 standard is being approached.

(b) All heating by means of solid fuel, including but not limited to solid fuel burning devices, fireplaces, masonry heaters, pellet stoves, trash burners and all devices described in ORS 468A.485(4)(b), whether or not those devices were certified for sale as new by DEQ or EPA, during a designated Stage II advisory when an exceedance of the PM10 or PM2.5 standard is forecasted to be imminent.

(5) Daily air pollution advisories. DEQ or the DEQ representative (local or regional government) must disseminate daily air pollution advisories to the local community that must include any air stagnation levels under section (3) and curtailed burning under section (4) during the winter wood heating season.

(6) Monitoring and enforcement. DEQ or the DEQ representative:

(a) Must monitor compliance with the wood burning curtailment program during curtailed burning under section (4); and

(b) May initiate enforcement action for smoke emitted through a flue or chimney during curtailed burning under section (4). Smoke emitted during curtailed burning raises a rebuttable presumption of a violation subject to OAR chapter 340, division 12.

(7) Exempt from enforcement action. A person may respond to an enforcement action initiated under subsection (6)(b) by submitting a signed affidavit and documentation sufficient for DEQ to establish:

(a) For a low income exemption under subsection (2)(a), a copy of the previous year tax returns with redacted Social Security Numbers. The tax return must reflect the total combined household

income for the past year; or

(b) For a sole-source heating exemption under subsection (2)(b), a signed affidavit attesting to the device's status as the sole heating source of the residence. The exemption is valid for the current woodheating season in which the person is claiming the exemption.

(8) Exempt status review. DEQ or the DEQ representative must review documentation submitted under section (7) to determine the exempt status of the household or solid fuel burning device. DEQ shall notify the person claiming exempt status of the:

(a) Approval of exempt status and the dismissal of the enforcement action under section (6); or

(b) Denial of exempt status including the reason.

(9) Suspension of Department program. DEQ shall suspend the operation and enforcement of (2) through (8) of this rule if the Department determines the local government or regional authority has adopted and is adequately implementing a wood burning and other heating devices curtailment program that is at least as stringent as the program outlined in this rule.

*State effective: 3/15/2011; EPA approval: 6/20/2013, 78 FR 37124; EPA effective: 7/22/2013*

### **340-262-0900 Materials Prohibited from Burning**

No person may cause or allow any of the following materials to be burned in a solid fuel burning device, fireplace, a trash burner or any other device described in ORS 468A.485(4)(b):

(1)(a) Garbage;

(b) Treated wood;

(c) Plastic or plastic products;

(d) Rubber or rubber products;

(e) Animal carcasses;

(f) Products that contain asphalt;

(g) Waste petroleum products;

(b) Paint;

- (i) Chemicals;
  - (j) Products containing lead, mercury or other heavy or toxic metals;
  - (k) Materials containing asbestos; and
  - (l) Particleboard.
- (2) Paper or paper products, except for paper used to kindle a fire.

*State effective: 3/15/2011; EPA approval: 6/20/2013, 78 FR 37124; EPA effective: 7/22/2013*

### **340-262-1000 Wood Burning Contingency Measures for PM<sub>2.5</sub> Nonattainment Areas**

#### **(1) Applicability**

This rule applies to any area classified as a nonattainment area for PM<sub>2.5</sub> that does not achieve attainment by the applicable Clean Air Act deadline.

- (2) No owner of a residential solid fuel burning device shall allow the appliance to burn creating opacity greater than 20% opacity for more than three minutes in any 60-minute period including startup time.

*State effective: 12/11/2012; EPA approval: 6/6/2016; 81 FR 36176; EPA effective: 7/6/2016*

## **DIVISION 264**

### **RULES FOR OPEN BURNING**

#### **340-264-0010 How to Use These Open Burning Rules**

- (1) This division classifies all open burning into one of seven classes: Agricultural; Commercial; Construction; Demolition (which includes land clearing); Domestic (which includes burning commonly called "backyard burning" and burning of yard debris); Industrial; or Slash. Except for field burning within the Willamette Valley regulated through OAR 340 division 266 and slash burning administered by the forest practices smoke management plan of the Oregon Department of Forestry, this division prescribes requirements for and prohibitions of open burning for every location in the state. Generally, if a class of open burning is not specifically prohibited in a given location, then it is authorized subject to OAR 340-264-0050 and 340-264-0060 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. In



addition, some practices specifically mentioned in OAR 340-264-0040 are exempted from this division.

(2) Organization of rules:

(a) OAR 340-264-0020 is the Policy statement of the EQC setting forth the goals of this division;

(b) OAR 340-264-0030 contains definitions of terms that have specialized meanings within the context of this division;

(c) OAR 340-264-0040 lists specific types of open burning and practices that are not governed by this division;

(d) OAR 340-264-0050 lists general requirements that usually apply to any open burning governed by this division;

(e) OAR 340-264-0060 lists general prohibitions that apply to most open burning;

(f) OAR 340-264-0070 establishes the open burning schedule based on air quality and meteorological conditions as required by ORS 468A.570;

(g) OAR 340-264-0075 allows the delegation of some or all of the open burning authority to be administered by a local jurisdiction;

(h) OAR 340-264-0078 contains the legal description of Open Burning Control Areas and maps that generally depict these areas;

(i) OAR 340-264-0080 indexes each county of the state to a specific rule giving specific restrictions for each class of open burning applicable in the county;

(j) OAR 340-264-0100 through 340-264-0170 are rules that give specific restrictions to open burning for each class of open burning in the counties named in each rule;

(k) OAR 340-264-0180 provides for a letter permit authorization for open burning under certain circumstances in which open burning otherwise would be prohibited.

(3) Use of this division will be made easier by the following procedure:

(a) Read OAR 340-264-0050 and 340-264-0060 to understand general requirements and prohibitions that apply to all burning governed by this division;

(b) In OAR 340-264-0030 read the definitions of Agricultural, Commercial, Construction, Demolition, Domestic and Industrial open burning plus the definitions of land clearing and yard debris to determine the type of burning of concern. Also read OAR 340-264-0040 to determine if the type of burning is exempted from this division;

- (c) Locate the rule in OAR 340-264-0100 through 340-264-0170 that governs the county in which burning is to take place. OAR 340-264-0090 is an index to the county rules;
- (d) Read the sections of the county rules that apply to the type of burning to be accomplished;
- (e) If not prohibited by this division, obtain a fire permit from the fire district, county court or county commissioners before conducting any burning;
- (f) If the type of burning proposed is prohibited by this division, refer to OAR 340-264-0180, Letter Permits, for a possible alternative.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0020 Policy**

In order 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, it is the policy of the EQC:

- (1) To eliminate open burning disposal practices where alternative disposal methods are feasible and practicable;
- (2) To encourage the development of alternative disposal methods;
- (3) To emphasize resource recovery;
- (4) To regulate specified types of open burning;
- (5) To encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible; and
- (6) To require specific programs and timetables for compliance with this division.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0030 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

- (1) "Agricultural burning for disease or pest control" means open burning of waste infected or infested with a disease or pest for which the County Extension Service or Oregon Department of Agriculture identify as having no other practicable control.
- (2) "Agricultural operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops

or by raising and selling livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose. Agricultural operation also means activities conducted by not-for-profit agricultural research organizations, which activities are necessary to serve that purpose. It does not include the construction and use of dwellings customarily provided in conjunction with the agricultural operation.

(3) "Agricultural open burning" means the open burning of any agricultural waste, except as provided in OAR 340-264-0040(5).

(4) "Agricultural waste" means any waste material generated or used by an agricultural operation, excluding those materials described in OAR 340-264-0060(3).

(5) "Animal disease emergency" means the occurrence of a disease that the Oregon Department of Agriculture determines has potentially serious economic implications for the livestock industries of this state.

(6) "Auxiliary combustion equipment" includes, but is not limited to fans.

(7) "Combustion promoting materials" include, but are not limited to, propane, diesel oil, or jellied diesel.

(8) "Commercial open burning" means the open burning of any commercial waste.

(9) "Commercial waste" means:

(a) Any material except:

(A) Agricultural waste;

(B) Construction waste;

(C) Demolition waste;

(D) Domestic waste;

(E) Industrial waste; and

(F) Slash.

(b) Examples of commercial waste are waste material from offices, wholesale or retail yards and outlets, warehouses, restaurants, mobile home parks, domestic waste removed from the property of origin, and dwellings containing more than four family living units, such as apartments, condominiums, hotels, motels or dormitories.

(10) "Construction open burning" means the open burning of any construction waste.

(11) "Construction waste" means any waste material generally used for, resulting from or produced by a building or construction project. Examples of construction waste are wood, lumber, paper, crating and packing materials processed for or used during construction, materials left after completion of construction, and materials collected during cleanup of a construction site.

(12) "Daylight hours" means the time between 7:30 a.m. and two hours before sunset.

(13) "Demolition open burning" means the open burning of demolition waste.

(14) "Demolition waste" means any material resulting from or produced by the complete or partial destruction or tearing down of any man-made structure, or the clearing of any site for land improvement or cleanup, excluding yard debris (domestic waste) and agricultural waste.

(15) "Domestic open burning" means the open burning of any domestic waste.

(16) "Domestic waste" means household waste material, which includes paper, cardboard, clothing, yard debris, or other material generated in or around a dwelling of four-or-fewer-family-living units, or on the real property appurtenant to the dwelling. Such waste materials generated in or around a dwelling of more than four-family-living units are commercial wastes. Once domestic waste is removed from the property of origin, it becomes commercial waste.

(17) "Fire hazard" means the presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare, or adjacent lands.

(18) "Hazard to public safety" means fires that burn prohibited materials or result in smoke that substantially impairs visibility on a roadway.

(19) "Industrial open burning" means the open burning of any industrial waste.

(20) "Industrial waste" means any waste material, including process waste, produced as the direct result of any manufacturing or industrial process.

(21) "Land clearing" means the removal of trees, brush, logs, stumps, debris or man-made structures for the purpose of site clean-up or site preparation. All waste material generated by land clearing is demolition waste except those materials included in the definitions of agricultural wastes, yard debris (domestic waste), and slash.

(22) "Letter permit" means an authorization issued pursuant to OAR 340-264-0180 to burn select materials at a defined site and under certain conditions.

(23) "Local jurisdiction" means:

(a) The local fire permit issuing authority; or

(b) The local governmental entity having authority to regulate by law or ordinance.

(24) "Nuisance" means a substantial and unreasonable interference with another's use and enjoyment of real property, or the substantial and unreasonable invasion of a right common to members of the general public.

(25) "Open burning" means:

(a) Burning in open, outdoor fires;

(b) Burning in burn barrels; and

(c) Any other outdoor burning when combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

(26) "Open burning control area" means an area established to control specific open burning practices or to maintain specific open burning standards that may be more stringent than those established for other areas of the state. Open burning control areas in the state are described in OAR 340-264-0078.

(27) "Population" means the annual population estimate of incorporated cities within the State of Oregon issued by the Center for Population Research and Census, Portland State University, Portland, Oregon.

(28) "Slash" means forest debris or woody vegetation to be burned that is related to the management of forest land used for growing and harvesting timber.

(29) "Special open burning control area" means an area in the Willamette Valley where DEQ restricts the practice of open burning. These areas are described in OAR 340-264-0078(6).

(30) "Ventilation index" means a number calculated by DEQ relating to the ability of the atmosphere to disperse regulated pollutants. The ventilation index is the product of the measured or estimated meteorological mixing depth in hundreds of feet and the measured or estimated average wind speed in knots through the mixed layer.

(31) "Waste" includes any useless or discarded materials. Each waste is categorized in this division as one of the following types:

(a) Agricultural;

(b) Commercial;

(c) Construction;

(d) Demolition;

- (e) Domestic;
- (f) Industrial; or
- (g) Slash.

(32) "Yard debris" means wood, needle or leaf materials from trees, shrubs or plants from the real property appurtenant to a dwelling of not more than four family living units so long as such debris remains on the property of origin. Once yard debris is removed from the property of origin, it becomes commercial waste. Yard debris is included in the definition of domestic waste.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0040 Exemptions, Statewide**

Except for the provisions contained in OAR 340-264-0050 and 340-264-0060, this division does not apply to:

- (1) Recreational fires and ceremonial fires, for which a fire is appropriate.
- (2) Barbecue equipment used in connection with any residence.
- (3) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or a hazard to public health or safety, or for instruction of employees in the methods of fire fighting, which in the opinion of the public agency is necessary. Every effort will be made by the public agency to conduct this burning during good smoke dispersal conditions and specifically avoiding periods during Air Pollution Advisories. The agency will adjust its schedule for setting such fires for better smoke dispersal if necessary. Open burning fires otherwise exempt from the requirements of this division are still subject to the requirements and prohibitions of local jurisdictions and the State Fire Marshall.
- (4) Agricultural open burning pursuant to ORS 468A.020. Agricultural open burning is still subject to the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (5) Open field burning, propane flaming, and stack and pile burning in the Willamette Valley between the crests of the Cascade and Coast Ranges pursuant to OAR 340 division 266, Rules for Field Burning.
- (6) Slash burning on forest land or within one-eighth mile of forest land permitted under the Oregon Smoke Management Program regulated by the Department of Forestry pursuant to ORS 477.515.
- (7) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire-fighting, or for civil defense instruction.

(8) Fires set for the purpose of disposal of dry tumbleweed plants, typically Russian Thistle and Tumbleweed Mustard plants, that have been broken off, and rolled about, by the wind.

(9) Agricultural burning for disease or pest control when the fire is set or authorized in writing by the Department of Agriculture.

(10) When caused by an authorized representative of the Department of Agriculture, open burning of carcasses of animals that have died or been destroyed because of an animal disease emergency.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0050 General Requirements Statewide**

This rule applies to all open burning, unless expressly limited by any other rule, regulation, permit, ordinance, order or decree of the EQC or other agency having jurisdiction:

(1) The following persons are considered a responsible person for open burning in violation of this rule:

(a) Each person who is in ownership, control or custody of the real property on which open burning occurs, including any tenant thereof;

(b) Each person who is in ownership, control or custody of the material that is burned; and

(c) Any person who causes or allows open burning to be initiated or maintained.

(d) For purposes of this rule, a public agency in its official capacity that has issued the permit for burning is not considered a responsible person.

(2) A responsible person, or an expressly authorized agent, must constantly attend all open burning. This person must be capable of and have the necessary equipment for extinguishing the fire. This person also must completely extinguish the fire before leaving it.

(3) A responsible person must promptly extinguish any burning that is in violation of any rule of the Commission or of any permit issued by DEQ, unless DEQ has given written approval to such responsible person to use auxiliary combustion equipment or combustion promoting materials to minimize smoke production, and the responsible person complies with the requirements in the written approval. However, nothing in this section authorizes any violation of OAR 340-264-0060(2) or (3).

(4) To promote efficient burning and prevent excessive emissions of smoke, a responsible person must:

(a) Assure that all combustible material is dried to the extent practicable. This includes covering the combustible material when practicable to protect the material from moisture in any form,

including precipitation or dew. However, nothing in this section authorizes any violation of OAR 340-264-0060(2) or (3);

(b) Loosely stack or windrow the combustible material to eliminate dirt, rocks and other noncombustible material and promote an adequate air supply to the burning pile, and provide the necessary tools and equipment to accomplish this;

(c) Periodically re-stack or feed the burning pile, insure that combustion is essentially completed and smoldering fires are prevented, and provide the necessary tools and equipment to accomplish this.

(5) Notwithstanding OAR 340-264-0040(4), each person sanitizing perennial or annual grass seed crops by open burning in counties outside the Willamette Valley must pay DEQ \$4 for each acre burned:

(a) DEQ may contract with counties, rural fire protection districts, or other responsible individuals for the collection of the fees;

(b) All fees collected under this section must be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund.

(6) Open burning in compliance with this division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order, or decree of this or any other governmental entity having jurisdiction.

(7) If any commercial, construction, or demolition debris burning allowed in OAR 340-264-0100 through 340-264-0170 violates OAR 340-264-0060(2), the open burning must be immediately extinguished. Any future burning of this material or similar material by the responsible person is prohibited unless DEQ issues a letter permit pursuant to OAR 340-264-0180.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0060 General Prohibitions Statewide**

This rule applies to all open burning, unless expressly limited by any other rule, regulation, permit, ordinance, or order or decree of the EQC or other agency having jurisdiction:

(1) The following persons are strictly liable for open burning in violation of this rule:

(a) Each person who is in ownership, control or custody of the real property on which open burning occurs, including any tenant thereof;

(b) Each person who is in ownership, control or custody of the material that is burned; and

(c) Any person who causes or allows open burning to be initiated or maintained.



- (2) No person may cause or allow to be initiated or maintained any open burning that creates a nuisance or a hazard to public safety.
- (3) No person may cause or allow to be initiated or maintained any open burning of any wet garbage, plastic, asbestos, wire insulation, automobile part, asphalt, petroleum product, petroleum treated material, rubber product, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or of any other material which normally emits dense smoke or noxious odors.
- (4) No person may cause or allow to be initiated or maintained any open burning of any material in any part of the state on any day or at any time if DEQ has notified the State Fire Marshal that such open burning is prohibited because of meteorological or air quality conditions pursuant to OAR 340-264-0070.
- (5) No agency may issue any fire permit authorizing any open burning of any material at any location on any day or at any time if DEQ has notified the State Fire Marshal that such open burning is prohibited because of meteorological or air quality conditions. If an agency issues a permit in violation of this rule, the permit does not excuse any person from complying with this section.
- (6) No person may cause or allow to be initiated or maintained any open burning authorized by this division during hours other than specified by DEQ.
- (7) No person may cause or allow to be initiated or maintained any open burning at any solid waste disposal site unless authorized by a Solid Waste Permit issued pursuant to OAR 340-093-0050.
- (8) No person may cause or allow to be initiated or maintained any open burning of debris removed from the property of origin unless the person receives a letter permit pursuant to OAR 340-264-0180. A letter permit is not required to burn agricultural waste removed from the property of origin provided the waste remains under control of the same responsible person.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0070 Open Burning Conditions**

Pursuant to ORS 468A.570, 476.380, 477.520 and 478.960, the following open burning conditions apply:

#### **(1) Mandatory Prohibition Based on Adverse Air Quality Conditions:**

(a) DEQ will notify the State Fire Marshal that all open burning is prohibited in all or a specified part of the state when DEQ declares:

(A) A particulate or sulfur dioxide alert pursuant to OAR 340-206-0030(2);

(B) A particulate or sulfur dioxide warning pursuant to OAR 340-206-0030(3); or

(C) An emergency for any air contaminant pursuant to OAR 340-206-0030(4).

(b) All open burning is prohibited until DEQ notifies the State Fire Marshal that the episode and prohibition are terminated.

(2) Discretionary Prohibition or Limitation Based on Meteorological Conditions:

(a) DEQ may notify the State Fire Marshal that all or specified types of open burning are prohibited or limited in all or any specified parts of the state based on any one or more of the following criteria affecting that part of the state:

(A) An air stagnation event as determined by DEQ;

(B) The daily maximum ventilation index calculated by DEQ for Willamette Valley Open Burning Control Areas or Umpqua Basin Open Burning Control Area is less than 200;

(C) The daily maximum ventilation index calculated by DEQ for the Rogue Basin Open Burning Control Area is less than 400 for all regulated open burning.

(D) DEQ determines there is poor ventilation;

(E) For regulation of burning of yard debris in urban areas, the amount of precipitation expected during the day; or

(F) Any other relevant factor.

(b) Such prohibitions or limits remain in effect until DEQ notifies the State Fire Marshal that the prohibition or limitation has been terminated;

(c) In deciding whether to prohibit or limit open burning pursuant to this section, DEQ will consider:

(A) The policy of the state set forth in ORS 468A.010;

(B) The relevant criteria set forth in ORS 468A.025(2);

(C) The extent and types of materials available to be burned;

(D) In the case of Agricultural open burning, the recommendations received from any local agricultural smoke management organization; and

(E) Any other relevant factor.

(d) In deciding whether to prohibit or limit any open burning pursuant to this section DEQ must give first priority to the burning of perennial grass seed crop used for grass seed production,

second priority for annual grass seed crop used for grass seed production, third priority to grain crop burning, and fourth priority to all other burning.

(3) Unless prohibited or limited pursuant to section (1) or (2), open burning will be allowed only during daylight hours, and must be conducted consistent with the other rules in this division and the requirements and prohibitions of local jurisdiction and the State Fire Marshal.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0075 Delegation of Authority**

Whenever DEQ finds that any city, county, fire protection district, forest protection district or state agency is capable of effectively administering the issuance and/or enforcement of permits under any or all of the open burning authority outlined within this division and is desirous of doing so, DEQ may delegate powers necessary for the issuance and/or enforcement of open burning permits to that entity. DEQ, upon finding that the entity is not effectively administering the program, may withdraw such delegation.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0078 Open Burning Control Areas**

Generally, areas around the more densely populated locations in the state and valleys or basins that restrict atmospheric ventilation are designated "Open Burning Control Areas". The practice of open burning may be more restrictive in open burning control areas than in other areas of the state. The specific open burning restrictions associated with these open burning control areas are listed in OAR 340-264-0100 through 340-264-0170 by county. The general locations of open burning control areas are depicted in Figures 2 through 5. The open burning control areas of the state are defined as follows:

(1) All areas in or within three miles of the incorporated city limit of all cities with a population of 4,000 or more.

(2) The Coos Bay Open Burning Control Area is located in Coos County with boundaries as generally depicted in Figure 3 Coos Bay Open Burning Control Area. The area is enclosed by a line beginning at a point approximately 4-1/2 miles WNW of the City of North Bend, at the intersection of the north boundary of T25S, R13W, and the coastline of the Pacific Ocean; thence east to the NE corner of T25S, R12W; thence south to the SE corner of T26S, R12W; thence west to the intersection of the south boundary of T26S, R14W and the coastline of the Pacific Ocean, thence northerly and easterly along the coastline of the Pacific Ocean to its intersection with the north boundary of T25S, R13W, the point of beginning.

(3) The Rogue Basin Open Burning Control Area is located in Jackson and Josephine Counties with boundaries as generally depicted in Figure 4 Rogue Basin Open Burning Control Area. The

area is enclosed by a line beginning at a point approximately 4-1/2 miles NE of the City of Shady Cove at the NE corner of T34S, R1W, Willamette Meridian, thence south along the Willamette Meridian to the SW corner of T37S, R1W; thence east to the NE corner of T38S, R1E; thence south to the SE corner of T38S, R1E; thence east to the NE corner of T39S, R2E; thence south to the SE corner of T39S, R2E; thence west to the SW corner of T39S, R1E; thence NW along a line to the NW corner of T39S, R1W; thence west to the SW corner of T38S, R2W; thence north to the SW corner of T36S, R2W; thence west to the SW corner of T36S, R4W; thence south to the SE corner of T37S, R5W; thence west to the SW corner of T37S, R6W; thence north to the NW corner of T36S, R6W; thence east to the SW corner of T35S, R1W; thence north to the NW corner of T34S, R1W; thence east to the point of beginning.

(4) The Umpqua Basin Open Burning Control Area is located in Douglas County with boundaries as generally depicted in Figure 5 Umpqua Basis Open Burning Control Area. The area is enclosed by a line beginning at a point approximately four miles ENE of the City of Oakland, Douglas County, at the NE corner of T25S, R5W, Willamette Meridian, thence south to the SE corner of T25S, R5W; thence east to the NE Corner of T26S, R4W; thence south to the SE corner of T27S, R4W; thence west to the SE corner of T27S, R5W; thence south to the SE corner of T30S, R5W; thence west to the SW corner of T30S, R6W; thence north to the NW corner of T29S, R6W; thence west to the SW corner of T28S, R7W thence north to the NW corner of T27S, R7W; thence east to the NE corner of T27S, R7W; thence north to the NW corner of T26, R6W; thence east to the NE corner of T26S, R6W; thence north to the NW corner of T25S, R5W; thence east to the point of beginning.

(5) The boundaries of the Willamette Valley Open Burning Control Area are generally depicted in Figure 1 Willamette Valley Open Burning Control Area and Figure 2 Open Burning Control Areas. The area includes all of Benton, Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and that portion of Lane County east of Range 7 West.

(6) The Klamath Basin Open Burning Control Area is located in Klamath County with boundaries generally depicted in Figure 6 Klamath Basin Open Burning Control Area. The area is enclosed by a line beginning at the corner common to northwest corner of Section 31, Township 37 South, Range 9 East of the Willamette Meridian and southwest corner of Section 30 T37S, R9E W.M.; thence east approximately two miles to the northeast corner of Section 32; thence south approximately four miles to the southeast corner of Section 17, T38S, R9E W.M.; thence east approximately one mile to the southwest corner of Section 15; thence north approximately one mile to the northwest corner of Section 15; thence east approximately 2 miles to the northeast corner of Section 14; thence south approximately one mile to the northwest corner of section 24; thence east approximately one mile to the northeast corner of Section 24; thence south approximately three miles to the southeast corner of Section 36; thence east approximately four miles to the northeast corner of Section 3, T39S, R10E W.M.; thence south approximately three miles to the southeast corner of Section 15; thence west approximately two miles to the southwest corner of Section 16; thence south approximately two miles to the

southeast corner of Section 29; thence west approximately five miles to the southwest corner of Section 27, T39S, R9E; thence north approximately one mile to the northeast corner of Section 27; thence west approximately four miles to the southwest corner of Section 24, T39S R8E; thence north approximately two miles to the northeast corner of Section 13; thence west approximately one mile to the southwest corner of Section 11; thence north approximately four miles to the northwest corner of Section 26 T38S, R8E; thence west one mile to the southwest corner of Section 22; thence north approximately one mile to the northwest corner of Section 22; thence west approximately one mile to the southwest corner of Section 16; thence north approximately one mile to the northeast corner of Section 16; thence west approximately one mile to the southwest corner of Section 8; thence north approximately two miles to the northwest corner of Section 5; thence east to the northeast corner of Section 1; thence north approximately one mile to the point of beginning.

(7) "Special Open Burning Control Areas" are established around cities within the Willamette Valley Open Burning Control Area. The boundaries of these special open burning control areas are determined as follows:

- (a) Any area in or within three miles of the boundary of any city of more than 1,000 but less than 45,000 population;
- (b) Any area in or within six miles of the boundary of any city of 45,000 or more population;
- (c) Any area between areas established by this rule where the boundaries are separated by three miles or less;
- (d) Whenever two or more cities have a common boundary, the total population of these cities will determine the applicability of subsection (a) or (b) and the municipal boundaries of each of the cities must be used to determine the limit of the special open burning control area.

(8) A domestic burning ban area around the Portland metropolitan area is generally depicted in Figure 1A Metropolitan Area Backyard Burning Boundaries. This area encompasses parts of the special control area in Clackamas, Multnomah and Washington Counties. Specific boundaries are listed in OAR 340-264-0120(5), 340-264-0130(5) and 340-264-0140(5). Domestic burning is prohibited in this area except as allowed pursuant to 340-264-0180.

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### **340-264-0080 County Listing of Specific Open Burning Rules**

Except as otherwise provided, in addition to the general requirements and prohibitions listed in OAR 340-264-0050 and 340-264-0060, specific prohibitions of agricultural, commercial, construction, demolition, domestic, and industrial open burning are listed in separate rules for each county. The following list identifies the rule containing prohibitions of specific types of open burning applicable to a given county:

- (1) Baker County — OAR 340-264-0100.
- (2) Benton County — OAR 340-264-0110.
- (3) Clackamas County — OAR 340-264-0120.
- (4) Clatsop County — OAR 340-264-0100.
- (5) Columbia County — OAR 340-264-0150.
- (6) Coos County — OAR 340-264-0170.
- (7) Crook County — OAR 340-264-0100.
- (8) Curry County — OAR 340-264-0100.
- (9) Deschutes County — OAR 340-264-0100.
- (10) Douglas County — OAR 340-264-0170.
- (11) Gilliam County — OAR 340-264-0100.
- (12) Grant County — OAR 340-264-0100.
- (13) Harney County — OAR 340-264-0100.
- (14) Hood River County — OAR 340-264-0100.
- (15) Jackson County — OAR 340-264-0170.
- (16) Jefferson County — OAR 340-264-0100.
- (17) Josephine County — OAR 340-264-0170.
- (18) Klamath County — OAR 340-264-0175.
- (19) Lake County — OAR 340-264-0100.
- (20) Lane County — OAR 340-264-0160.
- (21) Lincoln County — OAR 340-264-0100.
- (22) Linn County — OAR 340-264-0110.
- (23) Malheur County — OAR 340-264-0100.
- (24) Marion County — OAR 340-264-0110.
- (25) Morrow County — OAR 340-264-0100.

(26) Multnomah County — OAR 340-264-0130.

(27) Polk County — OAR 340-264-0110.

(28) Sherman County — OAR 340-264-0100.

(29) Tillamook County — OAR 340-264-0100.

(30) Umatilla County — OAR 340-264-0100.

(31) Union County — OAR 340-264-0100.

(32) Wallowa County — OAR 340-264-0100.

(33) Wasco County — OAR 340-264-0100.

(34) Washington County — OAR 340-264-0140.

(35) Wheeler County — OAR 340-264-0100.

(36) Yamhill County — OAR 340-264-0110.

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## OPEN BURNING REQUIREMENTS

### **340-264-0100 Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties**

Open burning requirements for the counties of Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler:

(1) Industrial open burning is prohibited, except as provided in OAR 340-264-0180.

(2) Agricultural open burning is allowed subject to OAR 340-264-0050(5) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning:

(a) Commercial open burning is prohibited within Lincoln County except as provided in OAR 340-264-0180.

(b) Commercial open burning is allowed outside of open burning control areas subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. Commercial open burning, unless authorized pursuant to

OAR 340-264-0180, is prohibited within three miles of the corporate city limits of the following open burning control areas. In addition, commercial open burning is prohibited in any area meeting the test in OAR 340-264-0078(1):

- (c) In Baker County, the City of Baker City;
- (d) In Clatsop County, the Cities of Astoria, Seaside and Warrenton;
- (e) In Crook County, the City of Prineville;
- (f) In Curry County, the City of Brookings;
- (g) In Deschutes County, the Cities of Bend and Redmond;
- (h) In Hood River County, the City of Hood River;
- (i) In Jefferson County, the City of Madras;
- (j) In Malheur County, the City of Ontario;
- (k) In Tillamook County, the City of Tillamook;
- (l) In Umatilla County, the Cities of Hermiston, Milton-Freewater and Pendleton;
- (m) In Union County, the City of La Grande;
- (n) In Wasco County, the City of The Dalles.

(4) Construction and demolition open burning outside of an open burning control area is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR 340-264-0050, 340-264-0060, and 340-264-0070. Construction and demolition open burning, unless authorized pursuant to OAR 340-264-0180, is prohibited within three miles of the corporate city limits of the following open burning control areas. In addition, construction and demolition burning is prohibited in any area meeting the standard in OAR 340-264-0078(1):

- (a) In Baker County, the City of Baker City;
- (b) In Clatsop County, the Cities of Astoria, Seaside and Warrenton;
- (c) In Crook County, the City of Prineville;
- (d) In Curry County, the City of Brookings;
- (e) In Deschutes County, the Cities of Bend and Redmond;
- (f) In Hood River County, the City of Hood River;
- (g) In Jefferson County, the City of Madras;



- (h) In Lincoln County, the Cities of Lincoln City and Newport;
  - (i) In Malheur County, the City of Ontario;
  - (j) In Tillamook County, the City of Tillamook;
  - (k) In Umatilla County, the Cities of Hermiston, Milton-Freewater and Pendleton;
  - (l) In Union County, the City of La Grande;
  - (m) In Wasco County, the City of The Dalles.
- (5) Domestic open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, and OAR 340-264-0050, 340-264-0060 and 340-264-0070.
- (6) Slash burning on forest land within open burning control areas not regulated by the Department of Forestry under the Smoke Management Plan is prohibited, except as provided in OAR 340-264-0180.

**340-264-0110 Benton, Linn, Marion, Polk, and Yamhill Counties**

Open burning requirements for Benton, Linn, Marion, Polk, and Yamhill Counties that form a part of the Willamette Valley Open Burning Control Area described in OAR 340-264-0078:

- (1) Industrial open burning is prohibited, except as provided in OAR 340-264-0180.
- (2) Agricultural open burning is allowed, subject to the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (3) Commercial open burning is prohibited, except as provided in OAR 340-264-0180.
- (4) Construction and Demolition open burning is allowed outside of special open burning control areas, subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR 340-264-0050, 340-264-0060 and 340-264-0070. Unless authorized pursuant to 340-264-0180, construction and demolition open burning is prohibited within special open burning control areas, including the following:
  - (a) Areas in or within six miles of the corporate city limit of:
    - (A) In Benton County, the City of Corvallis;
    - (B) In Marion County, the Cities of Salem and Keizer;
    - (C) In Polk County, the City of Salem.
  - (b) Areas in or within three miles of the corporate city limit of:
    - (A) In Benton County, the Cities of Albany, and Philomath;
    - (B) In Linn County, the Cities of Albany, Brownsville, Harrisburg, Lebanon, Lyons, Mill City, Tangent and Sweet Home;
    - (C) In Marion County the Cities of Aumsville, Gervais, Hubbard, Jefferson, Mill City, Mt. Angel, Silverton, Stayton, Sublimity, Turner and Woodburn;
    - (D) In Polk County, the Cities of Dallas, Falls City, Independence, Monmouth and Willamina;
    - (E) In Yamhill County, the Cities of Amity, Carlton, Dayton, Dundee, Lafayette, McMinnville, Newberg, Sheridan and Willamina.
  - (c) Any areas that meet the test in OAR 340-264-0078(6).
- (5) Domestic open burning:
  - (a) As generally depicted in Figure 1 Willamette Valley Open Burning Control Area of OAR 340-264-0078, domestic open burning is prohibited in the special open burning control areas

named in section (4), except open burning of yard debris is allowed beginning March first and ending June 15th, inclusive, and beginning Oct. 1st and ending Dec. 15th, inclusive, subject to OAR 340-264-0050 and 340-264-0060 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(b) Domestic open burning is allowed outside of special open burning control areas named in section (4), subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(c) No person may cause or allow to be initiated or maintained any domestic open burning other than during daylight hours, unless otherwise specified by DEQ pursuant to OAR 340-264-0070.

(6) Slash burning on forest land within special open burning control areas not regulated by the Department of Forestry under the Smoke Management Program is prohibited, except as provided in OAR 340-264-0180.

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### **340-264-0120 Clackamas County**

Open burning requirements for Clackamas County:

(1) Industrial open burning is prohibited, except as provided in OAR 340-264-0180.

(2) Agricultural open burning is allowed, subject to the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is prohibited, except as may be provided by OAR 340-264-0180.

(4) Construction and demolition open burning is allowed outside of special open burning control areas, subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. Unless authorized pursuant to OAR 340-264-0180, Construction and demolition open burning is prohibited within the following:

(a) Areas in or within six miles of the corporate city limits of Gladstone, Gresham, Happy Valley, Lake Oswego, Milwaukie, Oregon City, Portland, Rivergrove, Tualatin, West Linn and Wilsonville;

(b) Areas in or within three miles of the corporate city limits of Canby, Estacada, Molalla and Sandy.

(c) Any areas that meet the test in OAR 340-264-0078(7).

(5) Domestic open burning:

(a) Those areas where domestic burning is always prohibited (unless authorized under OAR 340-264-0180): Beginning at the trisection of the Clackamas-Multnomah-Washington County Line; thence east and then northerly and then east following the Clackamas-Multnomah County Line to the intersection with the northwest corner of Section 27, T1S, R2E; thence south to the midpoint of the western boundary of Section 3, T2S, R2E; thence on a line east approximately 1/4 of a mile; thence south to the southern boundary of Section 3, T2S, R2E and the corner of Camp Withycombe (Oregon National Guard); thence west approximately 1/4 mile to the midpoint of the southern boundary of Section 3, T2S, R2E; thence on a line south to the Clackamas River and the Metro Boundary as defined in Oregon Revised Statutes (ORS) Chapter 268.125; thence following the Metro Boundary first southerly and then westerly to the intersection with the Willamette River, excepting that portion listed in subsection (b)(2); thence northeasterly along the Willamette River to the confluence with the Tualatin River; thence northwesterly along the Tualatin River to the intersection with U.S. Interstate Highway 205 (I-205); thence westerly along I-205 to the intersection with the Clackamas-Washington County Line; thence north along the Clackamas-Washington County Line to the trisection of the Clackamas-Multnomah-Washington County Line, the point of beginning.

(b) Those areas where domestic open burning is prohibited except for the burning of yard debris between March 1 and June 15, and between October 1 and December 15, subject to OAR 340-264-0050 through 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshall, are the areas that lie within both Clackamas County and the Metro Boundary and are not included in paragraph (a). Specifically, those areas are listed as follows:

(A) The area beginning at the point on the Clackamas-Washington County Line where it is intersected by I-205; thence easterly along I-205 to the intersection with the Tualatin River; thence southeasterly along the Tualatin River to the confluence with the Willamette River; thence southerly along the Willamette River to the intersection with the northern boundary of Section 15, T3S, R1E; thence west to the northwest corner of Section 15, T3S, R1E; thence north to the northwest corner of section 10, T3S, R1E; thence west to the northwest corner of Section 9, T3S, R1E; thence north to the northwest corner of Section 4, T3S, R1E; thence west to the intersection with the Clackamas-Washington County Line; thence north to the intersection with I-205, the point of beginning.

(B) The area bounded by Henrici Road on the south; Highway 213 on the west; Beaver Creek Road on the east; and the southern boundary of Clackamas Community College on the north.

(C) The area beginning at the point where the Clackamas-Multnomah County Line intersects the northwest corner of Section 27, T1S, R2E; thence south to the midpoint of the western boundary of Section 3, T2S, R2E; thence on a line east approximately 1/4 of a mile; thence south to the southern boundary of Section 3, T2S, R2E and the corner of Camp Withycombe; thence west 1/4 mile to the midpoint of the southern boundary of Section 3, T2S, R2E; thence on a line south to the Clackamas River; thence easterly along the Clackamas River to the intersection with the western boundary of Section 18, T2S, R3E; thence north to the northwest corner of

Section 18, T2S, R3E; thence east to the northwest corner of Section 14, T2S, R3E; thence north to the northwest corner of Section 11, T2S, R3E; thence east to the intersection with Epperson Road; thence north-northwesterly along Epperson Road to the intersection with the Clackamas-Multnomah County Line at the northern boundary of Section 29, T1S, R2E; thence west along the county line to the northwest corner of Section 27, T1S, R2E, the point of beginning.

(c) Domestic open burning is allowed in all other areas of Clackamas County, subject to OAR 340-264-0050 and 340-264-0060 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(d) No person may cause or allow to be initiated or maintained any domestic open burning other than during daylight hours unless specified by DEQ pursuant to OAR 340-264-0070.

(6) Slash burning on forest land within special open burning control areas not regulated by the Department of Forestry under the Smoke Management Program is prohibited, except as provided in OAR 340-264-0180.

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### **340-264-0130 Multnomah County**

Open burning requirements for Multnomah County:

(1) Industrial open burning is prohibited, except as provided in OAR 340-264-0180.

(2) Agricultural open burning is allowed, subject to the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is prohibited, except as provided in OAR 340-264-0180.

(4) Construction and demolition open burning, unless authorized pursuant to OAR 340-264-0180, is prohibited west of the Sandy River but is allowed east of the Sandy River, subject to 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Domestic open burning:

(a) Those areas where open burning is always prohibited (unless authorized by 340-264-0180):

A) The area encompassed by the line beginning at the point where the Multnomah, Clackamas, and Washington County lines meet at a trisection; thence east and then north and then east along the Multnomah-Clackamas County Line to the intersection with SE 162nd Avenue; thence north along SE 162nd Avenue to the intersection with SE Foster Road; thence southeasterly along SE Foster Road to the intersection with Jenne Road; thence northeasterly along Jenne Road to the intersection with SE 174th Avenue; thence north along SE 174th Avenue to the intersection with SE Marie Street; thence east along SE Marie Street to the intersection with SE 182nd

Avenue; thence north along SE 182nd Avenue and continuing north as SE 182nd Avenue merges into SE 181st Avenue and then turns into NE 181st Avenue to the intersection with NE Sandy Boulevard; thence easterly along NE Sandy Boulevard to the intersection with NE 185th Drive; thence north along NE 185th Drive to the intersection with Marine Drive; thence continuing on a line due north to the Columbia River and the state line; thence following the Columbia River and the state line; thence following the Columbia River and the state line to the confluence of the Columbia and the Willamette Rivers; thence along the Willamette River to the Confluence with the Multnomah Channel and the Portland City Limits; thence following the Portland City Limits generally southerly to the intersection with Section 27, T1N, R1W and the Multnomah-Washington County Line; thence following the Multnomah-Washington County Line southwesterly and then south to the trisection of the Multnomah-Clackamas-Washington County Line, the point of beginning.

(B) All areas in northwest Multnomah County that are not contained within a Fire Protection District.

(C) The Burlington Water District.

(b) Those areas where domestic open burning is prohibited, except for the burning of yard debris between March 1 and June 15, and between Oct. 1 and Dec. 15 and subject to OAR 340-264-0050 through 340-264-0070 and the requirements and prohibitions of local jurisdictions and the State Fire Marshall, are the areas within Multnomah County that lie west of the Sandy River and are not included in OAR 340-264-0130(5)(a).

(c) Domestic open burning is allowed east of the Sandy River, subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(d) No person may cause or allow to be initiated or maintained any domestic open burning other than during daylight hours unless otherwise specified by DEQ pursuant to OAR 340-264-0070.

(6) Slash burning on forest land within special open burning control areas not regulated by the Department of Forestry under the Smoke Management Program is prohibited, except as provided in OAR 340-264-0180.

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### **340-264-0140 Washington County**

Open burning requirements for Washington County:

(1) Industrial open burning is prohibited, except as provided in OAR 340-264-0180.

(2) Agricultural open burning is allowed, subject to the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is prohibited, except as may be provided by OAR 340-264-0180.

(4) Construction and Demolition open burning, unless authorized pursuant to OAR 340-264-0180, is prohibited in all incorporated areas and areas within rural fire protection districts. Construction and demolition open burning is allowed in all other areas subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Domestic open burning:

(a) The area where open burning is always prohibited (unless authorized by OAR 340-264-0180): Beginning at the point where U.S. Interstate Highway 205 (I-205) intersects the Washington-Clackamas County Line; thence west along I-205 to the Tualatin City Limits; thence following along the Tualatin City Limits westerly, southerly, westerly and northerly to the intersection with U.S. Highway 99; thence northerly along U.S. Highway 99 to the intersection with the Metro Boundary as defined in Oregon Revised Statutes (ORS) Chapter 268.125; thence following the Metro Boundary generally northerly and westerly to the intersection with the Tualatin Valley Highway; thence westerly along the Tualatin Valley Highway to the intersection with the western boundary of Section 11, T1S, R2W; thence north to the northwest corner of Section 2, T1S, R2W; thence east to the northwest corner of Section 2, T1S, R2W; thence north to the intersection with U.S. Highway 26; thence northwesterly along U.S. Highway 26 to the intersection with Cornelius Pass Road; thence northeasterly along Cornelius Pass Road to the intersection with the northern boundary of Section 23, T1N, R2W; thence east approximately 1/5 mile along the northern boundary of section 23, T1N, R2W to the southernmost point of the Orchard; thence north following the eastern boundary of the Orchard to the intersection with West Union Road; thence southeasterly and then easterly along West Union Road approximately 1.1 miles to a point approximately 1/4 mile west of the eastern boundary of Section 24, T1N, R2W; thence north on a line approximately 1000 feet; thence northeasterly on a line approximately 1/4 mile to the intersection of NW 185th Avenue and NW Springville Road; thence northeasterly along NW Springville Road approximately 1/4 mile to the one-quarter point of the northern boundary of Section 19, T1N, R1W; thence north approximately 400 feet; thence east to the intersection with NW 185th Avenue; thence north along 185th Avenue approximately 800 feet to the one-quarter point of the western boundary of Section 18, T1N, R1W; thence gradually northeasterly such that the Rock Creek Campus of Portland Community College is within the boundary approximately 1/2 mile to the midpoint of Section 18, T1N, R1W; thence south following the eastern boundary of the Rock Creek Campus of Portland Community College and continuing on a line due south to the intersection with NW Springville Road and the southern boundary of Section 18, T1N, R1W; thence northeasterly along NW Springville Road to the intersection with the Washington-Multnomah County Line; thence following the Washington County line southeasterly and then southerly to the point where the Washington-Clackamas County Line intersects I-205, the point of beginning.

(b) Those areas where domestic open burning is prohibited, except for the burning of yard debris between March 1 and June 15, and between Oct. 1 and Dec. 15, subject to OAR 340-264-0050 through 340-262-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshall:

(A) All incorporated areas in Washington County not listed in OAR 340-264-0140(5)(a) or 340-264-0140(5)(c).

(B) All unincorporated areas within municipal or rural fire districts.

(c) Those areas where domestic burning is allowed, subject to OAR 340-264-0050, and 340-264-0060 and the requirements and prohibitions of local jurisdictions and the State Fire Marshall:

(A) The area enclosed by a line beginning at the point where Highway 26 intersects the western boundary of Section 24, T2N, R4W; thence north to the northwest corner of Section 13, T2N, R4W; thence east to the midpoint of the northern boundary of Section 16, T2N, R3W; thence on a line south to the middle of Section 21, T2N, R3W; thence east to the intersection with the midpoint of the western boundary of Section 22, T2N, R3W; thence south to the southwest corner of Section 22, T2N, R3W; thence continuing south to the northern boundary of Washington County Donation Land Claim (DLC) #44; thence southeast and east following the northern boundary of Washington County DLC #44 to the eastern boundary of Washington County DLC #44; thence southwesterly along the eastern boundary of DLC #44 to the intersection with DLC Plot #76; thence continuing southwesterly along the eastern boundary of DLC #76 to the intersection with the Burlington Northern Railroad Line; thence northwesterly along the Burlington Northern Railroad Line to the intersection with the southern boundary of Section 32, T2N, R4W; thence west to the southwest corner of Section 36, T2N, R4W; thence north to the point where Highway 26 intersects the western boundary of Section 24, T2N, R4W, the point of beginning.

(B) All unincorporated areas of Washington County outside of municipal or rural fire districts.

(d) No person may cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by DEQ pursuant to OAR 340-264-0070.

(6) Slash burning on forest land within special open burning control areas not regulated by the Department of Forestry under the Smoke Management Program is prohibited, except as provided in OAR 340-264-0180.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0150 Columbia County**

Open burning requirements for Columbia County:



- (1) Industrial open burning is prohibited unless authorized pursuant to OAR 340-264-0180.
- (2) Agricultural open burning is allowed subject to OAR 340-264-0050(5) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (3) Commercial open burning is prohibited unless authorized pursuant to OAR 340-264-0180.
- (4) Construction and demolition open burning:
  - (a) Unless authorized pursuant to OAR 340-264-0180, construction and demolition open burning is prohibited within three miles of the open burning control areas of Clatskanie, Rainier, St. Helens, Scappoose, and Vernonia and any other area that meets the standard in OAR 340-264-0078(1);
  - (b) Construction and demolition open burning is allowed in all other parts of Columbia County subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (5) Domestic open burning is allowed subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (6) Slash burning on forest land within open burning control areas not regulated by the Department of Forestry under the Smoke Management Program is prohibited, except as provided in OAR 340-264-0180.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0160 Lane County**

Open burning requirements for Lane County. That portion of Lane County east of Range 7 West, Willamette Meridian, forms a part of the Willamette Valley Open Burning Control Area as generally described in OAR 340-264-0078(5) and depicted in Figure 2 Open Burning Control Areas:

- (1) The rules and regulations of LRAPA apply to all open burning in Lane County, provided such rules are no less stringent than the provisions of this division. LRAPA may not regulate agricultural open burning.
- (2) Industrial open burning is prohibited unless authorized pursuant to OAR 340-264-0180.
- (3) Agricultural open burning is allowed subject to the requirements and prohibitions of local jurisdictions and the State Fire Marshal:
- (4) Commercial open burning, unless authorized pursuant to OAR 340-264-0180, is prohibited in Lane County east of Range 7 West Willamette Meridian and in or within three miles of the city limit of Florence on the coast. Commercial open burning is allowed in the remaining areas

of Lane County, subject to OAR 340-264-0050 and 340-264-0060 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Construction and demolition open burning, unless authorized pursuant to OAR 340-264-0180, is prohibited within all fire districts and other areas specified in this section but is allowed elsewhere in Lane County, subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. Areas where open burning of construction and demolition waste is prohibited include:

- (a) Bailey-Spencer RFPD;
- (b) Coburg RFPD;
- (c) Cottage Grove/South Lane Fire District;
- (d) Creswell RFPD;
- (e) Dexter RFPD except that portion east of the Willamette Meridian;
- (f) Eugene RFPD No. 1;
- (g) Goshen RFPD;
- (h) Junction City Fire District;
- (i) Junction City RFPD;
- (j) Lane County Fire District #1;
- (k) Lane RFPD No. 1 outside the Eugene-Springfield Urban Growth Boundary;
- (l) Lowell RFPD;
- (m) Marcola RFPD;
- (n) McKenzie RFPD outside the Eugene-Springfield Urban Growth Boundary;
- (o) Monroe RFPD that portion within Lane County;
- (p) Oakridge RFPD;
- (q) Pleasant Hill RFPD;
- (r) Santa Clara RFPD outside the Eugene-Springfield Urban Growth Boundary;
- (s) Westfir RFPD;
- (t) Willakenzie RFPD;

(u) Zumwalt RFPD.

(6) Domestic open burning:

(a) Domestic open burning outside the fire districts listed in section (5) is allowed subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(b) Domestic open burning is prohibited within all fire districts listed in section (5) except that open burning of yard debris is allowed subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(c) Refer to LRAPA open burning rules for specific seasons and hours for domestic open burning.

(7) Slash burning on forest land within special open burning control areas not regulated by the Department of Forestry under the Smoke Management Program is prohibited, except as provided in OAR 340-264-0180.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0170 Coos, Douglas, Jackson and Josephine Counties**

Open burning requirements for Coos, Douglas, Jackson and Josephine Counties:

(1) Open burning control areas:

(a) The Coos Bay open burning control area, as described in OAR 340-264-0078(2) and generally depicted in Figure 3 Coos Bay Open Burning Control Area of OAR 340-264-0078, is located in Coos County;

(b) The Umpqua Basin open burning control area, as described in OAR 340-264-0078(4), and generally depicted in Figure 5 Umpqua Basin Open Burning Control Area of OAR 340-264-0078, is located in Douglas County;

(c) The Rogue Basin open burning control area, as described in OAR 340-264-0078(3) and generally depicted in Figure 4 Rogue Basin Open Burning Control Area of OAR 340-264-0078, is located in Jackson and Josephine Counties.

(2) Industrial open burning is prohibited unless authorized pursuant to OAR 340-264-0180.

(3) Agricultural open burning is allowed subject to OAR 340-264-0050(5) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(4) Commercial open burning is prohibited within the Coos Bay, Umpqua Basin and Rogue Basin open burning control areas and within three miles of the corporate city limits of Coquille,

Reedsport and other areas that meet the standard in OAR 340-264-0078(1), unless authorized pursuant to OAR 340-264-0180. Commercial open burning is allowed in all other areas of these counties subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Construction and demolition open burning is prohibited within the Coos Bay, Umpqua Basin and Rogue Basin open burning control areas and within three miles of the corporate city limits of Coquille, Reedsport and other areas that meet the standard within OAR 340-264-0078(1), unless authorized pursuant to OAR 340-264-0180. Construction and demolition open burning is allowed in other areas of these counties subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(6) Domestic open burning is allowed subject to OAR 340-264-0050, 340-264-0060, 340-264-0070 and section (7), and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(7) Slash burning on forest land within open burning control areas not regulated by the Department of Forestry under the Smoke Management Program is prohibited, except as provided in OAR 340-264-0180.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0175 Klamath County**

Open burning requirements for Klamath County:

(1) Open burning control areas: The Klamath Basin open burning control area as generally described in OAR 340-264-0078(6) and depicted in Figure 6 is located in Klamath County;

(2) Industrial open burning is prohibited unless authorized pursuant to OAR 340-264-0180.

(3) Agricultural open burning is allowed subject to OAR 340-264-0050(5) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(4) Commercial open burning is prohibited within the Klamath Basin open burning control areas and within three miles of the corporate city limits of other areas that meet the standard in OAR 340-264-0078(1), unless authorized pursuant to OAR 340-264-0180. Commercial open burning is allowed in all other areas of this county subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Construction and Demolition open burning is prohibited within the Klamath Basin open burning control areas and within three miles of the corporate city limits of other areas that meet the standard within OAR 340-264-0078(1), unless authorized pursuant to 340-264-0180. Construction and Demolition open burning is allowed in other areas of these counties subject to

340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(6) Domestic open burning is allowed subject to OAR 340-264-0050, 340-264-0060, 340-264-0070 and section (7) of this rule, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(7) Slash burning on forest land within open burning control areas not regulated by the Department of Forestry under the Smoke Management Program is prohibited, except as provided in OAR 340-264-0180.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

### **340-264-0180 Letter Permits**

(1) Open Burning of commercial, industrial, slash, construction or demolition waste on a singly occurring or infrequent basis or the open burning of yard debris that is otherwise prohibited, may be permitted by a letter permit issued by DEQ in accordance with this rule and subject to OAR 340-264-0050, 340-264-0060 and 340-264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. OAR 340-014-0025 and 340 OAR division 216 do not apply.

(2) A letter permit may only be issued on the basis of a written application for disposal of material by burning that has been approved by DEQ. Each application for a letter permit must contain the following items:

- (a) The quantity and type of material proposed to be burned;
- (b) A listing of all alternative disposal methods and potential costs that have been identified or investigated;
- (c) The expected amount of time that will be required to complete the burning (not required for yard debris);
- (d) The methods proposed to be used to insure complete and efficient combustion of the material;
- (e) The location of the proposed burning site;
- (f) A diagram showing the proposed burning site and the structures and facilities inhabited or used in the vicinity including distances thereto;
- (g) The expected frequency of the need to dispose of similar materials by burning in the future;
- (h) If the application is for prescribed burning of standing vegetation for the purpose of creating or restoring wetlands or for promoting or enhancing habitat for indigenous species of plants or animals, the application must also include a citation to the federal or state law or program

requiring or authorizing such conversion or enhancement. The application must also include a statement from the appropriate agency responsible for implementing the law or program that open burning is the most practicable alternative for the conversion or enhancement.

(i) Any other information that the applicant considers relevant or DEQ may require;

(j) For open burning of yard debris:

(A) A "Hardship Permit Application" completed on a form supplied by DEQ; and

(B) Either payment of the appropriate fee pursuant to section (10) or a "waiver request" completed on a form supplied by DEQ.

(3) Upon receipt of a written application, DEQ may approve the application if it is satisfied that:

(a) The applicant has demonstrated that all reasonable alternatives have been explored and no practicable alternative method for disposal of the materials exists; and

(b) The proposed burning will not cause or contribute to significant degradation of air quality.

(c) For locations within Clackamas, Columbia, Multnomah and Washington counties, where open burning is otherwise prohibited, the following conditions must also be met. Letter permits may be issued only for disposing of:

(A) Material resulting from emergency occurrences, including but not limited to, floods, storms or oil spills;

(B) Material originating as yard debris that has been collected and stored by governmental jurisdictions, provided that no other reasonable means of disposal are available;

(C) Yard debris excluding grass clippings and leaf piles, on the property of a private residence where the inability to burn creates a significant hardship due to:

(i) An economic burden because the estimated cost of alternative means of yard debris disposal presents a financial hardship in relation to household income and expenses of the applicant;

(ii) A physical handicap, personal disability, chronic illness, substantial infirmity or other physical limitation substantially inhibiting the ability of the applicant to process or transport yard debris; or

(iii) Inaccessibility of yard debris, where steepness of terrain or remoteness of the debris site makes access by processing or transportation equipment unreasonable.

(4) DEQ may deny an application for a letter permit or revoke or suspend an issued letter permit on any of the following grounds:

(a) Any material misstatement or omission in the application or a history of such misstatements or omissions by the applicant;

(b) Any actual or projected violation of any statute, rule, regulation, order, permit, ordinance, judgment or decree.

(5) In making its determination under section (3), DEQ may consider:

(a) The conditions of the airshed of the proposed burning;

(b) The other air pollution sources in the vicinity of the proposed burning;

(c) The availability of other methods of disposal, and special circumstances or conditions that may impose a hardship on an applicant;

(d) The frequency of the need to dispose of similar materials in the past and expected in the future;

(e) The applicant's prior violations, if any;

(f) The projected effect upon persons and property in the vicinity; and

(g) Any other relevant factor.

(6) Each letter permit issued by DEQ pursuant to section (2) must contain at least the following elements:

(a) The location where burning is permitted to take place.

(b) The number of actual calendar days on which burning is permitted to take place, not to exceed seven. Burning pursuant to a permit for yard debris must be limited to three days per season unless satisfactory justification for more burning is provided by the applicant.

(c) The period during which the permit is valid, not to exceed a period of 30 consecutive days, except a permit for yard debris. The actual period in the permit must be specific to the needs of the applicant. DEQ may issue specific letter permits for shorter periods.

(d) A letter permit for yard debris is valid for a single burning season or for both the spring and fall burning seasons during a calendar year, as appropriate to the application and the fee paid pursuant to the schedule in section (10). The spring burning is from March 1 to June 15, inclusive, and the fall burning season is from Oct. 1 to Dec. 15, inclusive.

(e) Equipment and methods required to be used by the applicant to insure that the burning is accomplished in the most efficient manner over the shortest period of time to minimize smoke production.

(f) The limitations, if any, based on meteorological conditions required before burning may occur. Open burning under permits for yard debris must be limited to the hours and times that limit seasonal domestic yard debris burning permitted in the county where the burning under the letter permit is to occur.

(g) Reporting requirements for both starting the fire each day and completion of the requested burning, (optional for permits for yard debris).

(h) A statement that OAR 340-264-0050 and 340-264-0060 are fully applicable to all burning under the permit.

(i) Such other conditions as DEQ considers to be desirable.

(7) Regardless of the conditions contained in any letter permit, each letter permit, except permits for yard debris, will not be valid for more than 30 consecutive calendar days of which a maximum of seven can be used for burning. DEQ may issue specific letter permits for shorter periods.

(8) Letter permits are not renewable. Any request to conduct additional burning requires a new application and a new permit.

(9) No person may violate any condition, limitation, or term of a letter permit.

(10) All applications for a letter permit for yard debris must be accompanied by a permit fee payable to DEQ, or approved delegated authority, and become non-refundable upon issuance of the permit. The fee to be submitted is:

(a) For a single burning season, spring or fall — \$20;

(b) For a calendar year — \$30.

(11) DEQ may waive the single season permit fee if the applicant shows that the cost of the yard debris permit presents an extreme financial hardship in relation to the household income and expenses of the applicant.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## **DIVISION 266**

### **FIELD BURNING RULES (Willamette Valley)**

#### **340-266-0010 Introduction**

(1) This Division applies to the open field burning, propane flaming, and stack and pile burning



of all perennial and annual grass seed and cereal grain crops, and associated residue within the Willamette Valley. The open burning of all other agricultural waste material, including sanitizing perennial and annual grass seed crops by open burning in counties outside the Willamette Valley, (referred to as “fourth priority agricultural burning”) is governed by OAR Chapter 340, Division 264, Rules for Open Burning. Enforcement procedure and civil penalties for open field burning, propane flaming, and stack and pile burning are established in OAR Chapter 340, Division 12.

(2) Organization of rules:

(a) OAR 340-266-0020 is the policy statement of the Environmental Quality Commission setting forth the goals of this Division;

(b) OAR 340-266-0030 contains definitions of terms which have specialized meanings within the context of this Division;

(c) OAR 340-266-0040 lists general provisions and requirements pertaining to all open field burning, propane flaming, and stack and pile burning with particular emphasis on the duties and responsibilities of the grower registrant;

(d) OAR 340-266-0050 lists procedures and requirements for registration of acreage, issuance of permits, collection of fees, and keeping of records, with particular emphasis on the duties and responsibilities of the local permit issuing agencies;

(e) OAR 340-266-0060 establishes acreage limits and methods of determining acreage allocations;

(f) OAR 340-266-0070 establishes criteria for authorization of open field burning, propane flaming, and stack and pile burning pursuant to the administration of a daily smoke management control program;

(g) OAR 340-266-0080 establishes special provisions pertaining to field burning by public agencies for official purposes, such as “training fires”;

(h) OAR 340-266-0090 establishes special provisions pertaining to “preparatory burning”;

(i) OAR 340-266-0100 establishes special provisions pertaining to open field burning for experimental purposes;

(j) OAR 340-166-0110 establishes special provisions and procedures pertaining to emergency cessation of burning;

(k) OAR 340-266-0120 establishes provisions pertaining to propane flaming;

(l) OAR 340-266-0130 establishes provisions pertaining to “stack and piling burning”.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0020 Policy**

In the interest of public health and welfare, it is the declared public policy of the State of Oregon to reduce the practice of open field burning while developing and providing alternative methods of field sanitation and alternative methods of utilizing and marketing grass seed and cereal grain straw residues and to control, reduce, and prevent air pollution from open field burning, propane flaming, and stack and pile burning by smoke management. In developing and carrying out a smoke management control program it is the policy of the Environmental Quality Commission:

(1) To provide for a maximum level of burning with a minimum level of smoke impact on the public, recognizing:

(a) The importance of flexibility and judgment in the daily decision-making process, within established and necessary limits;

(b) The need for operational efficiency within and between each organizational level;

(c) The need for effective compliance with all regulations and restrictions.

(2) To study, develop and encourage the use of reasonable and economically feasible alternatives to the practice of open field burning.

(3) To increase the degree of public safety by preventing unwanted wild fires and smoke from open field burning, propane flaming, and stack burning near highways and freeways within the State of Oregon. The Environmental Quality Commission hereby adopts by reference, as rules of the Environmental Quality Commission, OAR 837-110-0110 through 837-110-0160, the rules of the State Fire Marshal filed with the Secretary of State on February 7, 1994. These rules shall apply to that area west of the Cascade Range and south to the Douglas/Lane County lines.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0030 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 OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

- (1) “Actively Extinguish” means the direct application of water or other fire retardant to an open field fire.
- (2) “Approved Alternative Method(s)” means any method approved by the Department to be a satisfactory alternative field sanitation method to open field burning.
- (3) “Approved Alternative Facilities” means any land, structure, building, installation, excavation, machinery, equipment, or device approved by the Department for use in conjunction with an approved alternative method.
- (4) “Candidate Fields” means all grass seed or cereal grain fields being considered for open field burning or propane flaming.
- (5) “Commission” means the Environmental Quality Commission.
- (6) “Cumulative Hours of Smoke Intrusion in the Eugene-Springfield Area” means the average of the totals of cumulative hours of smoke intrusion recorded for the Eugene site and the Springfield site. Provided the Department determines that field burning was a significant contributor to the smoke intrusion:
- (a) The Department shall record one hour of intrusion for each hour the nephelometer hourly reading exceeds a background level by  $1.8 \times 10^4$  b-scat units or more but less than the applicable value in subsection (b) or (c) of this section;
- (b) Between June 16 and September 14 of each year, two hours of smoke intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by  $5.0 \times 10^4$  b-scat units;
- (c) Between September 15 and June 15 of each year, two hours of intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by  $4.0 \times 10^4$  b-scat units;
- (d) The background level shall be the average of the three hourly readings immediately prior to the intrusion.
- (7) “Department” means the Department of Environmental Quality. The Department may enter into contracts with the Oregon Department of Agriculture or other agencies to carry out the purposes set forth in these rules.
- (8) “Director” means the Director of the Department or delegated employee representative pursuant to ORS 468.045(3).

(9) “District Allocation” means the total amount of acreage sub-allocated annually to the fire district, based on the district’s pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued within the district, subject to daily authorization. District allocation is defined by the following identity:

District Allocation =

$$\frac{\text{Maximum annual acreage limit}}{(\text{Total acreage registered in the District})} \div \text{Total acreage registered in the Valley}$$

(10) “Drying Day” means a 24-hour period during which the relative humidity reached a minimum less than 50 percent and no rainfall was recorded at the nearest reliable measuring site.

(11) “Effective Mixing Height” means either the actual height of plume rise as determined by aircraft measurement or the calculated or estimated mixing height as determined by the Department, whichever is greater.

(12) “Field-by-Field Burning” means burning on a limited or restricted basis in which the amount, rate, and area authorized for burning is closely controlled and monitored. Included under this definition are “training fires” and experimental open field burning.

(13) “Field Reference Code” means a unique four-part code which identifies a particular registered field for mapping purposes. The first part of the code shall indicate the grower registration (form) number, the second part the line number of the field as listed on the registration form, the third part the crop type, and the fourth part the size (acreage) of the field (e.g., a 35 acre perennial (bluegrass) field registered on Line 2 of registration form number 1953 would be 1953-2-P-BL-35).

(14) “Fire District” or “District” means a fire permit issuing agency.

(15) “Fire Permit” means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, 477.530, 476.380, or 478.960.

(16) “Fires-Out Time” means the time announced by the Department when all flames and major smoke sources associated with open field burning should be out and prohibition conditions are scheduled to be imposed.

(17) “Fire Safety Buffer Zone” shall have the same meaning as defined in the State Fire Marshal rules.

(18) “Fluffing” means an approved mechanical method of stirring or tedding crop residues for enhanced aeration and drying of the full fuel load, thereby improving the field’s combustion characteristics.

(19) “Grower Allocation” means the amount of acreage sub-allocated annually to the grower registrant, based on the grower registrant’s pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued, subject to daily authorization. Grower allocation is defined by the following identity:

$$\text{Grower Allocation} = \frac{\text{Maximum annual acreage limit}}{\text{Total acreage registered in the Valley}} \times \text{Total acreage registered by the grower registrant}$$

(20) “Grower Registrant” means any person who registers acreage with the Department for purposes of open field burning, propane flaming, or receives a permit to stack or pile burn.

(21) “Marginal Conditions” means atmospheric conditions such that smoke and particulate matter escape into the upper atmosphere with some difficulty but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety.

(22) “Marginal Day” means a day on which marginal conditions exist.

(23) “Nephelometer” means an instrument for measuring ambient smoke concentrations.

(24) “Northerly Winds” means winds coming from directions from 290E to 90E in the north part of the compass, averaged through the effective mixing height.

(25) “Open Field Burning” means burning of any perennial or annual grass seed or cereal grain crop, or associated residue, in such manner that combustion air and combustion products are not effectively controlled.

(26) “Open Burning” means the burning of agricultural, construction, demolition, domestic, or commercial waste or any other burning which occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney pursuant to OAR 340-264-0030.

(27) “Open Field Burning Permit” means a permit issued by the Department pursuant to ORS 468A.575.

(28) “Permit Issuing Agency” or “Permit Agent” means the county court or board of county commissioners, or fire chief or a rural fire protection district or other person authorized to issue fire permits pursuant to ORS 477.515, 477.530, 476.380, or 478.960.

(29) “Preparatory Burning” means controlled burning of portions of selected problem fields for the specific purpose of reducing the fire hazard potential or other conditions which would otherwise inhibit rapid ignition burning when the field is subsequently open burned.

(30) “Priority Acreage” means acreage located within a priority area.

(31) “Priority Areas” means the following areas of the Willamette Valley:

(a) Areas in or within three miles of the city limits of incorporated cities having populations of 10,000 or greater;

(b) Areas within one mile of airports servicing regularly scheduled airline flights;

(c) Areas in Lane County south of the line formed by U.S. Highway 126 and Oregon Highway 126;

(d) Areas in or within three miles of the city limits of the City of Lebanon;

(e) Areas on the west and east side of and within 1/4 mile of these highways: 99, 99E, and 99W. Areas on the south and north side of and within 1/4 mile of U.S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

(32) “Prohibition Conditions” means conditions under which open field burning is not allowed except for individual burns specifically authorized by the Department pursuant to OAR 340-266-0070(2).

(33) “Propane Flaming” means a mobile flamer device which meets the following design specifications and utilizes an auxiliary fuel such that combustion is nearly complete and emissions are significantly reduced:

(a) Flamer nozzles shall not be more than 15 inches apart;

(b) A heat deflecting hood is required and shall extend a minimum of three feet beyond the last

row of nozzles.

(34) “Propane Flaming Permit” means a permit issued by the Department pursuant to ORS 468A.575 and consisting of a validation number and specifying the conditions and acreage specifically registered and allocated for propane flaming.

(35) “Quota” means an amount of acreage established by the Department for each fire district for use in authorizing daily burning limits in a manner to provide, as reasonably as practicable, an equitable opportunity for burning in each area.

(36) “Rapid Ignition Techniques” means a method of burning in which all sides of the field are ignited as rapidly as practicable in order to maximize plume rise. Little or no preparatory backfire burning shall be done.

(37) “Released Allocation” means that part of a growers allocation, by registration form, that is unused and voluntarily released to the Department for first come-first serve dispersal to other grower registrants.

(38) “Residue” means straw, stubble and associated crop material generated in the production of grass seed and cereal grain crops.

(39) “Responsible Person” means each person who is in ownership, control, or custody of the real property on which open burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, or the grower registrant. Each person who causes or allows open field burning, propane flaming, or stack or pile burning to be maintained shall also be considered a responsible person.

(40) “Small-Seeded Seed Crops Requiring Flame Sanitation” means small-seeded grass, legume, and vegetable crops, or other types approved by the Department, which are planted in early autumn, are grown specifically for seed production, and which require flame sanitation for proper cultivation. For purposes of this Division, clover and sugar beets are specifically included. Cereal grains, hairy vetch, or field peas are specifically not included.

(41) “Smoke Management” means a system for the daily or hourly control of open field burning, propane flaming, or stack or pile burning through authorization of the times, locations, amounts and other restrictions on burning, so as to provide for suitable atmospheric dispersion of smoke particulate and to minimize impact on the public.

(42) “Southerly Winds” means winds coming from directions from 90E to 290E in the south part of the compass, averaged through the effective mixing height.

(43) “Stack Burning” means the open burning of bound, baled, collected, gathered, accumulated, piled or stacked straw residue from perennial or annual grass seed or cereal grain crops.

(44) “Stack Burning Permit” means a permit issued by the Department pursuant to ORS 468A.575 that identifies the responsible person, date of permit issuance, and specifies the acreage and location authorized for stack or pile burning.

(45) “Test Fires” means individual field burns specifically authorized by the Department for the purpose of determining or monitoring atmospheric dispersion conditions.

(46) “Training Fires” means individual field burns set by or for a public agency for the official purpose of training personnel in fire-fighting techniques.

(47) “Unusually High Evaporative Weather Conditions” means a combination of meteorological conditions following periods of rain which result in sufficiently high rates of evaporation, as determined by the Department, where fuel (residue) moisture content would be expected to approach about 12 percent or less.

(48) “Validation Number” means:

(a) For open field burning a unique five-part number issued by the Department or its delegate identifying a specific field and acreage allowed to be open field burned and the date and time the permit was issued (e.g., a validation number issued August 26 at 2:30 p.m. for a 70-acre burn for a field registered on Line 2 of registration form number 1953 would be 1953-2-0826-1430-070);

(b) For propane flaming and stack or pile burning a unique five part alphanumeric, issued by the Department or its delegate, identifying a specific field and acreage allowed to be propane flamed or stack or pile burned, the date and time the permit was issued, and the burn type (e.g., a validation number issued on July 15 for a 100 acre field to be propane flamed registered on Line 4 of registration form 9999 would be 9999-4-0715-P-100.

(49) “Ventilation Index (VI)” means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in this Division is defined by the following identity:

VI =

Effective mixing height (feet)

1,000

**r**

Average wind speed through the effective mixing height (knots)



(50) “Willamette Valley” means the areas of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington, and Yamhill Counties lying between the crest of the Coast Range and the crest of the Cascade Mountains, and includes the following:

(a) “South Valley”, the areas of jurisdiction of all fire permit issuing agents or agencies in the Willamette Valley portions of the counties of Benton, Lane, or Linn;

(b) “North Valley”, the areas of jurisdiction of all other fire permit issuing agents or agencies in the Willamette Valley.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0040 General Requirements**

(1) No person shall cause or allow open field burning or propane flaming on any acreage unless said acreage has first been registered and mapped pursuant to OAR 340-266-0050(1), the registration fee has been paid, and the registration (permit application) has been approved by the Department.

(2) No person shall cause or allow open field burning, propane flaming, or stack or pile burning without first obtaining and being able to readily demonstrate a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 340-266-0050(2). One the specific day of and prior to open the field burning, propane flaming, or pile or stack burning of any grass seed or cereal grain crop or associated residue the grower registrant shall obtain, in person or by telephone, a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 340-266-0050.

(3) The Department may prohibit any person from registering acreage for open field burning or propane flaming and may deny burn permits for open field burning, propane flaming, and stack and pile burning until all delinquent registration fees, late fees, and burn permit fees from previous seasons are paid. The Department may also institute appropriate legal action to collect the delinquent fees.

(4) No person shall open field burn cereal grain acreage unless that person first issues to the Department a signed statement, and then acts to insure, that said acreage will be planted in the following growing season to a small-seeded seed crop requiring flame sanitation for proper cultivation, as defined in OAR 340-266-0030(40).

(5) No person shall cause or allow open field burning, propane flaming, or stack or pile burning which is contrary to the Department’s announced burning schedule specifying the times, locations and amounts of burning permitted, or to any other provision announced or set forth by the Department or this Division.

(6) Each responsible person open field burning or propane flaming shall have an operating radio receiver and shall directly monitor the Department's burn schedule announcements at all times while open field burning or propane flaming.

(7) Each responsible person open field burning or propane flaming shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employee of the Department.

(8) No person shall cause or allow open field burning or stack or pile burning within 1/4 mile of either side of any Interstate freeway within the Willamette Valley or within 1/8 mile of either side of the designated roadways listed in OAR 837-110-0080(2)(c). In addition, no person shall cause or allow open field burning in any of the remaining area within a fire safety buffer zone unless a noncombustible ground surface has been provided between the field to be burned and the nearest edge of the roadway right-of-way as required by OAR 837-110-0080.

(9) Each responsible person open field burning, propane flaming, or stack or pile burning within a priority area or fire safety buffer zone around a designated city, airport or highway shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the designated city, airport or highway.

(10) Each responsible person open field burning shall make every reasonable effort to expedite and promote efficient burning and prevent excessive emissions of smoke by:

(a) Meeting all of the State Fire Marshal requirements specified in OAR 837-110-0040 through 837-110-0080;

(b) Ensuring field residues are evenly distributed, dry, and in good burning condition;

(c) Employing rapid ignition techniques on all acreage where there are no imminent fire hazards or public safety concerns.

(11) Open field burning, propane flaming, or stack or pile burning in compliance with this Division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order or decree of the Commission or any other government entity having jurisdiction.

(12) Any revisions to the maximum acreage to be burned, allocation or permit issuing procedures, or any other substantive changes to this Division affecting open field burning, propane flaming, or stack or pile burning for any year shall be made prior to June 1 of that year.

In making such changes, the Commission shall consult with Oregon State University.

(13) Open field burning shall be regulated in a manner consistent with the requirements of the Oregon Visibility Protection Plan for Class I Areas (Section 5.2 of the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-200-0040).

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0050 Registration, Permits, Fees, Records**

In administering a field burning smoke management program, the Department may contract with counties or fire districts or other responsible individual to administer registration of acreage, issuance of permits, collection of fees, and keeping of records for open field burning, propane flaming, or stack or pile burning within their permit jurisdictions. The Department shall pay said authority for these services in accordance with the payment schedule provided for in ORS 468A.615. Three-quarters of said payment shall be made prior to July 1 of each year and the remainder shall be paid within ten days after completion of the end of season reconciliation:

(1) Registration of acreage:

(a) On or before April 1 of each year, each grower intending to open burn or propane flame under this Division shall register the total acreage to be open burned or propane flamed. Said acreage shall be registered with the Department or its authorized permit agent on the registration forms provided. Candidate fields for open burning or propane flaming shall be listed on the registration form and shall also be delineated on specially provided registration map materials and identified using a unique field reference code. Registration, listing of fields, and mapping shall be completed according to the established procedures of the Department. At the time of registration, a non-refundable registration fee of \$2 shall be paid for each acre registered for open field burning and \$1 shall be paid for each acre registered for propane flaming. The registration fees for open field burning and propane flaming shall be paid into separate designated accounts. A complete registration (permit application) shall consist of a fully executed registration form, map and fee. Acreage registered by April 1 may be issued a burn permit if:

(A) Allocation is available; and

(B) The initial registration fee account has a sufficient balance.

(b) Registration of open field burning and propane flaming acreage after April 1 of each year shall require the prior approval of the Department and an additional \$1 per acre late registration fee. The late registration fee shall not be charged if the late registration is not due to the fault of the registrant or one under the registrant's control;

(c) Copies of all registration forms and fees shall be forwarded to the Department promptly by the permit agent. Registration map materials shall be made available to the Department at all times for inspection and reproduction;

(d) The Department shall act on any registration application within 60 days of receipt of a completed application. The Department may deny or revoke any registration application which is incomplete, false or contrary to state law or this Division;

(e) The grower registrant shall insure the information presented on the registration form and map is complete and accurate.

(2) Permits:

(a) Permits for open field burning, propane flaming, or stack or pile burning shall be issued by the Department, or its authorized permit agent, to the grower registrant in accordance with the established procedures of the Department, and the times, locations, amounts and other restrictions set forth by the Department or this Division;

(b) A fire permit from the local fire permit issuing agency is also required for all open burning pursuant to ORS 477.515, 477.530, 476.380, 478.960;

(c) A valid open field burning permit shall consist of:

(A) An open field burning permit issued by the Department which specifies the permit conditions in effect at all times while burning and which identifies the acreage specifically registered and annually allocated for burning;

(B) A validation number issued by the local permit agent on the day of the burn identifying the specific acreage allowed for burning and the date and time the permit was issued.

(d) A valid propane flaming permit shall consist of:

(A) A propane flaming permit issued by the Department which specifies the permit conditions in effect at all times while flaming and which identifies the acreage specifically registered and annually allocated for propane flaming;

(B) A validation number issued by the local permit agent identifying the specific acreage allowed for propane flaming and the date and time the permit was issued.

(e) A valid stack or pile burning permit shall consist of the name of the responsible person and date the permit was issued, and shall specify the acreage and location authorized;

(f) Each responsible person open field burning, propane flaming, or stack or pile burning shall pay a per acre burn fee within ten days of the date the permit was issued. The fee shall be:

(A) \$8 per acre sanitized by open field burning;

(B) \$2 per acre sanitized by propane flaming;

(C) For all acreage burned in stacks or piles:

(i) \$2 per acre from January 1, 1992 to December 31, 1997;

(ii) \$4 per acre burn fee in 1998;

(iii) \$6 per acre burn fee in 1999;

(iv) \$8 per acre burn fee in 2000; and

(v) \$10 per acre burn fee in 2001 and thereafter.

(D) For grass seed and cereal grain residue from previous seasons, broken bales, or fields where a portion of straw was removed using usual or standard baling methods, the acreage actually burned shall be estimated and the same per acre fee as imposed in paragraph (C) of this subsection shall be charged. The estimated acreage shall be rounded to the nearest whole acre.

(g) Burning permits shall at all times be limited by and subject to the burn schedule and other requirements or conditions announced or set forth by the Department;

(h) No person shall issue burning permits for open field burning, propane flaming, or stack or pile burning of:

(A) More acreage than the amount sub-allocated annually to the District by the Department pursuant to OAR 266-0060(2);

(B) Priority or fire safety buffer zone acreage located on the upwind side of any city, airport, Interstate freeway or highway within the same priority area or buffer zone.

(i) It is the responsibility of each local permit issuing agency to establish and implement a system for distributing open field burning, propane flaming, or stack or pile burning permits to individual grower registrants when burning is authorized, provided that such system is fair, orderly and consistent with state law, this Division and any other provisions set forth by the

Department.

(3) Fees:

(a) Permit agents shall collect, properly document, and promptly forward all required registration, late registration fees, and burn fees to the Department;

(b) All fees shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund and shall be appropriated pursuant to ORS 468A.550 to 468A.620.

(4) Records:

(a) Permit agents shall at all times keep proper and accurate records of all transactions pertaining to registrations, permits, fees, allocations, and other matters specified by the Department. Such records shall be kept by the permit agent for a period of at least five years and made available for inspection by the appropriate authorities;

(b) Permit agents shall submit to the Department on specially provided forms weekly reports of all acreage burned in their permit jurisdictions. These reports shall cover the weekly period of Monday through Sunday, and shall be mailed and post-marked no later than the first working day of the following week.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0060 Acreage Limitations, Allocations**

(1) Limitation of Acreage:

(a) Except for acreage and residue open field burned pursuant to OAR 340266-0100 through OAR 340-266-0130, the maximum acreage to be open field burned annually in the Willamette Valley under this Division shall not exceed:

(A) 120,000 acres for 1994 and 1995;

(B) 100,000 acres for 1996 and 1997; and

(C) 40,000 acres for 1998 and thereafter.

(b) Notwithstanding the annual limitations, up to 25,000 acres of steep terrain and species identified by the Director of Agriculture may be open field burned or propane flamed annually and shall be considered outside the limitation;

(c) Other limitations on acreage allowed to be open field burned are specified in OAR 340-266-

0070(7), 340-266-0080(2), 340-266-0090(1) and 340-266-0100(1);

(d) The maximum acreage to be propane flamed annually in the Willamette Valley under this Division shall not exceed 75,000 acres;

(e) Other limitations on acreage allowed to be propane flamed are specified in OAR 340-266-0120.

(2) Allocation of Acreage:

(a) In the event that total registration as of April 1 is less than or equal to the maximum acreage allowed to be open field burned or propane flamed annually, pursuant to subsection (1)(a) and (d) of this rule, the Department shall sub-allocate to each grower registrant and each district (subject to daily burn authorization) 100 percent of their respective registered acreage;

(b) In the event that total registration as of April 1 exceeds the maximum acreage allowed to be open field burned or propane flamed annually, pursuant to subsection (1)(a) of this rule, the Department may sub-allocate to growers on a pro rata share basis not more than 100 percent of the maximum acreage limit, referred to as “grower allocation”. In addition, the Department shall sub-allocate to each respective fire district, its pro rata share of the maximum acreage limit based on acreage registered within the district, referred to as “district allocation”;

(c) To ensure optimum permit utilization, the Department may adjust fire district allocations;

(d) Transfer of allocations for farm management purposes may be made within and between fire districts and between grower registrants on a one-in/one-out basis under the supervision of the Department. The Department may assist grower registrants by administering a reserve of released allocation for first come-first served utilization.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0070 Daily Burning Authorization Criteria**

As part of the Smoke Management Program provided for in ORS 468A.590, the Department shall set forth the types and extent of open field burning, propane flaming, and stack and pile burning to be allowed each day according to the provisions established in this section and this Division:

(1) During the active burning season and on an as needed basis, the Department shall announce the burning schedule over the burning radio network operated specifically for this purpose. The schedule shall specify the times, locations, amounts and other restrictions in effect for open field burning, propane flaming, and stack and pile burning. The Department shall notify the State Fire Marshal of the burning schedule for dissemination to appropriate Willamette Valley agencies.

(2) Prohibition conditions:

(a) Prohibition conditions shall be in effect at all times unless specifically determined and announced otherwise by the Department;

(b) Under prohibition conditions, no permits shall be issued and no open field burning shall be conducted in any area except for individual burns specifically authorized by the Department on a limited extent basis. Such limited burning may include field-by-field burning, preparatory burning, or burning of test fires, except that:

(A) No open field burning shall be allowed:

(i) In any area subject to a ventilation index of less than 10.0;

(ii) In any area upwind, or in the immediate vicinity, of any area in which, based upon real-time monitoring, a violation of federal or state air quality standards is projected to occur.

(B) Only test-fire burning may be allowed:

(i) In any area subject to a ventilation index of between 10.0 and 15.0, inclusive, except for experimental burning specifically authorized by the Department pursuant to OAR 340-266-0100;

(ii) When relative humidity at the nearest reliable measuring station exceeds 50 percent under forecast northerly winds or 65 percent under forecast southerly winds.

(3) Marginal conditions:

(a) The Department shall announce that marginal conditions are in effect and open field burning is allowed when, in its best judgment and within the established limits of this Division, the prevailing atmospheric dispersion and burning conditions are suitable for satisfactory smoke dispersal with minimal impact on the public, provided that the minimum conditions set forth in paragraphs (2)(b)(A) and (B) of this rule are satisfied;

(b) Under marginal conditions, permits may be issued and open field burning may be conducted in accordance with the times, locations, amounts, and other restrictions set forth by the Department and this Division.

(4) Hours of burning:



(a) Burning hours shall be limited to those specifically authorized by the Department each day and may be changed at any time when necessary to attain and maintain air quality;

(b) Burning hours may be reduced by the fire chief or his deputy, and burning may be prohibited by the State Fire Marshal, when necessary to prevent danger to life or property from fire, pursuant to ORS 478.960.

(5) Locations of burning:

(a) Locations of burning shall at all times be limited to those areas specifically authorized by the Department; except that

(b) No priority or fire safety buffer zone acreage shall be burned upwind of any city, airport, Interstate freeway or highway within the same priority area or buffer zone;

(c) No south Valley priority acreage shall be burned upwind of the Eugene-Springfield non-attainment area.

(6) Amounts of burning:

(a) To provide for an efficient and equitable distribution of burning, daily authorizations of acreages shall be issued by the Department in terms of single or multiple fire district quotas. The Department shall establish quotas for each fire district and may adjust the quotas of any district when conditions in its judgment warrant such action;

(b) Unless otherwise specifically announced by the Department, a one quota limit shall be considered in effect for each district authorized for burning;

(c) The Department may issue more restrictive limitations on the amount, density or frequency of burning in any area or on the basis of crop type, when conditions in its judgment warrant such action.

(7) Limitations on burning based on air quality:

(a) The Department shall establish the minimum allowable effective mixing height required for burning based upon cumulative hours of smoke intrusion in the Eugene-Springfield area as follows;

(b) Except as provided in paragraph (C) of this subsection, burning shall not be permitted whenever the effective mixing height is less than the minimum allowable height specified in **Table 1**, and by reference made a part of this Division;

(c) Notwithstanding the effective mixing height restrictions of paragraph (b) of this subsection, the Department may authorize burning of up to 1,000 acres total per day for the Willamette Valley, consistent with smoke management considerations and this Division.

(8) Limitations on burning based on rainfall:

(a) Open field burning and propane flaming shall be prohibited in any area for one drying day (up to a maximum of four consecutive drying days) for each 0.10 inch increment of rainfall received per day at the nearest reliable measuring station;

(b) The Department may waive the restrictions of subsection (a) of this section when dry fields are available as a result of special field preparation or condition, irregular rainfall patterns, or unusually high evaporative weather condition.

(9) Other discretionary provisions and restrictions:

(a) The Department may require special field preparations before burning, such as, but not limited to, mechanical fluffing of residues, when conditions in its judgment warrant such action;

(b) The Department may designate specified periods following permit issuance within which time active field ignition must be initiated and/or all flames must be actively extinguished before said permit is automatically rendered invalid;

(c) The Department may designate additional areas as priority areas when conditions in its judgment warrant such action.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0080 Burning by Public Agencies (Training Fires)**

Open field burning on grass seed or cereal grain acreage by or for any public agency for official purposes, including the training of fire-fighting personnel, may be permitted by the Department on a prescheduled basis consistent with smoke management considerations and subject to the following conditions:

(1) Such burning must be deemed necessary by the official local authority having jurisdiction and must be conducted in a manner consistent with its purpose.

(2) Such burning must be limited to the minimum number of acres and occasions reasonably needed but in no case exceed 35 acres per fire or occasion.

(3) The responsible person shall comply with the provisions of OAR 340-266-0040 through

340-266-0060.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0090 Preparatory Burning**

The Department encourages the preparatory burning of portions of selected problem fields to reduce or eliminate potential fire hazards and safety problems and to expedite the subsequent burning of the field. Such burning shall be consistent with smoke management considerations and subject to the following conditions:

(1) Each responsible person shall limit the acres burned to the minimum necessary to eliminate potential fire hazards or safety problems but in no case exceed five acres for each burn unless specifically authorized by the Department.

(2) Each responsible person conducting preparatory burning shall employ backfiring burning techniques.

(3) Each responsible person conducting preparatory burning shall comply with the provisions of OAR 340-266-0040 through 340-266-0060 and OAR 837-110-0010 through 837-110-0090.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0100 Experimental Burning**

The Department may allow open field burning for demonstration or experimental purposes pursuant to the provisions of ORS 468A.620, consistent with smoke management considerations and subject to the following conditions:

(1) Acreage experimentally open field burned, propane flamed, or stack or pile burned shall not exceed 1,000 acres annually.

(2) Acreage experimentally burned shall not apply to the district allocation or to the maximum annual acreage limit specified in OAR 340-266-0060(1)(a) or (d).

(3) Such burning is exempt from the provisions of OAR 340-266-0070 but must comply with the provisions of OAR 340-266-0040 and 340-266-0050, except that the Department may elect to waive all or part of the per acre open field burning or propane flaming fee.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0110 Emergency Burning Cessation**

Pursuant to ORS 468A.610 and upon finding of extreme danger to public health or safety, the Commission may order temporary emergency cessation of all open field burning in any area of

the Willamette Valley.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0120 Propane Flaming**

(1) The use of propane flamers, mobile field sanitizing devices, and other field sanitation methods specifically approved by the Department are subject to the following conditions:

(a) The field shall first be prepared as follows:

(A) Either the field must have previously been open burned and the appropriate fees paid; or

(B) The field stubble must be flail-chopped, mowed, or otherwise cut close to the ground and the loose straw removed so the remaining stubble will not sustain an open fire.

(b) Propane flaming operations shall comply with the following criteria:

(A) Unless otherwise specifically restricted by the Department propane flaming may be conducted only between the hours of 9 a.m. and sunset between June 1 and August 31 of each year and (9 a.m. to 1/2 hour before sunset between September 1 and October 14 of each year;

(B) Propane flamers shall be operated in overlapping strips, crosswise to the prevailing wind, beginning along the downwind edge of the field;

(C) No person shall cause or allow propane flaming which results in sustained open fire. Should sustained open fire create excessive smoke all flame and smoke sources shall be immediately and actively extinguished;

(D) No person shall cause or allow any propane flaming which results in visibility impairment on any Interstate highways or roadways specified in OAR 837-110-0080(1) and (2). Should visibility impairment occur, all flame and smoke sources shall be immediately and actively extinguished;

(E) The acreage must be registered and permits obtained pursuant to OAR 340-266-0050;

(F) No person shall cause or allow propane flaming when either the relative humidity at the nearest reliable measuring station exceeds 65 percent or the surface winds exceed 15 miles per hour;

(G) All regrowth over eight inches in height shall be mowed or cut close to the ground and removed.

(c) All propane flaming operations shall be conducted in accordance with the State Fire Marshal's safety requirements specified in OAR 837-110-0100 through 837-110-0160;

(d) No person shall cause or allow to be initiated or maintained any propane flaming or other mobile fire sanitation methods not certified by the Department on any day or at any time if the Department has determined and notified the State Fire Marshal that propane flaming is prohibited because of adverse meteorological or air quality conditions.

(2) The Department may issue restrictive limitations on the amount, density or frequency of propane flaming or other mobile fire sanitation methods in any area when meteorological conditions are unsuitable for adequate smoke dispersion, or deterioration of ambient air quality occurs.

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

### **340-266-0130 Stack Burning**

The open burning of piled or stacked residue from perennial or annual grass seed or cereal grain crops used for seed production is allowed subject to the following conditions:

(1) No person shall cause or allow to be initiated or maintained any stack or pile burning on any day or at any time if the Department has notified the State Fire Marshal that such burning is prohibited because of meteorological or air quality conditions.

(2) No person shall cause or allow stack or pile burning of any grass seed or cereal grain residue unless said residue is dry and free of all other combustible and non-combustible material.

(3) Each responsible person shall make every reasonable effort to promote efficient burning, minimize smoke emissions, and extinguish any stack burning which is in violation of any rule of the Commission.

(4) No stack or pile burning shall be conducted within any State Fire Marshal buffer zone "non-combustible ground surface" area (e.g., within 1/4 mile of Interstate I-5, or 1/8 mile of any designated roadway), as specified in OAR 837-110-0080.

(5) The acreage must be permitted pursuant to OAR 340-266-0050.

(6) Unless otherwise specifically agreed by the parties, after the straw is removed from the fields of the grower, the responsibility for the further disposition of the straw, including burning or disposal, and payment of the appropriate fees, shall be upon the person who bales, removes, controls, or is in possession of the straw.

TABLE 1 (OAR 340-266-0070)	
MINIMUM ALLOWABLE EFFECTIVE MIXING HEIGHT REQUIRED FOR BURNING BASED UPON THE CUMULATIVE HOURS OF SMOKE INTRUSION IN THE EUGENE-SPRINGFIELD AREA	
Cumulative Hours of Smoke Intrusion in the <u>Eugene-Springfield Area</u>	Minimum Allowable Effective <u>Mixing</u> <u>Height (feet)</u>
0 - 14	No minimum
15 - 19	4,000
20 - 24	4,500
25 and greater 5,500	5,500

*State effective: 10/14/1999; EPA approval: 1/22/2003, 68 FR 2891; EPA effective: 3/24/2003*

## DIVISION 268

### EMISSION REDUCTION CREDITS

#### 340-268-0010 Applicability and Jurisdiction

(1) This division applies to any person who wishes to create or bank an emission reduction credit in the state.

(2) 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.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### 340-268-0020 Definitions

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

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

#### 340-268-0030 Emissions Reduction Credits

Any person who reduces emissions by implementing more stringent controls than required by a permit or an applicable regulation may create an emission reduction credit. Emission reduction credits must be created and banked within two years from the time of actual emission reduction.

(1) Creating Emission Reduction Credits. Emission reductions can be considered credits if all of the following requirements are met:

(a) The reduction is permanent due to continuous overcontrol, curtailment or shutdown of an existing activity or device.

(b) The reduction is in terms of actual emissions reduced at the source. The amount of the creditable reduction is the difference between the contemporaneous (any consecutive 12 calendar month period during the prior 24 calendar months) pre-reduction actual (or allowable, whichever is less) emissions and the post-reduction allowable emissions from the subject activity or device.

(c) The reduction is either:

(A) Enforceable by DEQ through permit conditions or rules adopted specifically to implement the reduction that make increases from the activity or device creating the reduction a violation of a permit condition; or

(B) The result of a physical design that makes such increases physically impossible.

(d) The reduction is surplus. Emission reductions must be in addition to any emissions used to attain or maintain AAQS in the SIP.

(e) Sources in violation of air quality emission limitations may not create emission reduction credits from those emissions that are or were in violation of air quality emission limitations.

(f) Hazardous emissions reductions required to meet the MACT standards at 40 CFR part 61 and part 63, including emissions reductions to meet the early reduction requirements of section 112(i)(5), are not creditable as emission reduction credits for purposes of Major NSR in nonattainment or reattainment areas. However, any emissions reductions that are in excess of or incidental to the MACT standards are not precluded from being credited as emission reduction credits as long as all conditions of a creditable emission reduction credit are met.

(2) Banking of Emission Reduction Credits.

(a) The life of emission reduction credits may be extended through the banking process as follows:

(A) Emission reduction credits may be banked for ten years from the time of actual emission reduction.

(B) Requests for emission reduction credit banking must be submitted within the 2 year (24 calendar months) contemporaneous time period immediately following the actual emission reduction. (The actual emission reduction occurs when the airshed experiences the reduction in emissions, not when a permit is issued or otherwise changed).

(b) Banked emission reduction credits are protected during the banked period from rule required reduction, if DEQ receives the emission reduction credit banking request before DEQ submits a notice of a proposed rule or plan development action for publication in the Secretary of State's bulletin. The EQC may reduce the amount of any banked emission reduction credit that is protected under this section, if the EQC determines the reduction is necessary to attain or maintain an ambient air quality standard.

(c) Emission reductions must be in the amount of ten tons per year or more to be creditable for banking, except as follows:

(A) In the Medford-Ashland AQMA, PM10 emission reductions must be at least 3 tons per year.

(B) In Lane County, LRAPA may adopt lower levels.

(C) In the Klamath Falls nonattainment area and the Lakeview UGB, PM2.5 emission reductions must be at least 1 ton per year.

(d) Emission reduction credits will not expire pending DEQ taking action on a timely banking request unless the 10 year period available for banking expires.

(3) Using Emission Reduction Credits: Emission reduction credits may be used for:

(a) Netting actions within the source that generated the credit, through a permit modification; or

(b) Offsets pursuant to the NSR program, OAR 340 division 224.

(4) Emission reduction credits are considered used when a complete NSR permit application is received by DEQ to apply the emission reduction credits to netting actions within the source that generated the credit, or to meet the offset and net air quality benefit requirements of the NSR program under OAR 340-224-0500 through 340-224-0540.

(5) Unused Emission Reduction Credits.

(a) Emission reduction credits that are not used, and for which DEQ does not receive a request for banking within the contemporaneous time period, will become unassigned emissions for purposes of the PSEL and are no longer available for use as external offsets.

(b) Emission reduction credits that are not used prior to the expiration date of the credit will revert to the source that generated the credit and will be treated as unassigned emissions for



purposes of the PSEL pursuant to OAR 340-222-0055 and are no longer available for use as external offsets.

(6) Emission Reduction Credit (ERC) Permit:

(a) DEQ tracks ERC creation and banking through the permitting process. The holder of ERCs must maintain either an ACDP, Title V permit, or an ERC Permit.

(b) DEQ issues ERC Permits for anyone who is not subject to the ACDP or Title V programs that requests an ERC or an ERC to be banked.

(c) An ERC permit will only contain conditions necessary to make the emission reduction enforceable and track the credit.

(d) Requests for emission reduction credit banking must be submitted in writing to DEQ and contain the following documentation:

(A) A detailed description of the activity or device controlled or shut down;

(B) Emission calculations showing the types and amounts of actual emissions reduced, including pre-reduction actual emission and post-reduction allowable emission calculations;

(C) The date or dates of actual reductions;

(D) The procedure that will render such emission reductions permanent and enforceable;

(E) Emission unit flow parameters including but not limited to temperature, flow rate and stack height;

(F) Description of short and long term emission reduction variability, if any.

(e) Requests for emission reduction credit banking must be submitted to DEQ within two years (24 months) of the actual emissions reduction. DEQ must approve or deny requests for emission reduction credit banking before they are effective. In the case of approvals, DEQ issues a permit to the owner or operator defining the terms of such banking. DEQ insures the permanence and enforceability of the banked emission reductions by including appropriate conditions in permits and, if necessary, by recommending appropriate revisions to the SIP.

(f) DEQ provides for the allocation of emission reduction credits in accordance with the uses specified by the holder of the emission reduction credits. The holder of ERCs must notify DEQ in writing when they are transferred to a new owner or site. Any use of emission reduction credits must be compatible with local comprehensive plans, statewide planning goals, and state laws and rules.

*State effective: 4/16/2015; EPA approval: 10/11/2017, 82 FR 47122; EPA effective: 11/13/2017*

## CHAPTER 629

### 629-24-301 Maintenance of Productivity and Related Values

Operations on forestland shall be planned and conducted In a manner which will provide adequate consideration to treatment of stashing to protect residual stands of timber and reproduction to optimize conditions for regeneration of forest tree species, to maintain productivity of forest land, and maintain air and water quality and fish and wildlife habitat:

(1) Reduce the volume of debris as much as practicable by such methods as:

(a) Well planned and supervised felling and bucking practices to minimize breakage;

(b) Increased utilization of wood fibre including, but not limited to, salvaging, pre-logging, and relogging when a market exists;

(c) Stage cutting when applicable, with successive cuts delayed until stashing created by previous operations is reduced.

(2) In these areas where stash treatment is necessary for protection or regeneration, the following methods may be used:

(a) Scattering of slash accumulations;

(b) Piling or windrowing of slash;

(c) Mechanized chopping, compaction, or burying of slashing;

(d) Controlled burning;

(e) Provisions for additional protection from fire during the period of increased hazard. Protect fish habitat when establishing water sources.

(3) Dispose of or disperse unstable slash accumulations around landings to prevent their entry into streams.

(4) When treating competing vegetation, plan harvesting practices to break up or destroy such vegetation. When necessary, follow up with application of chemicals and/or by burning.

(5) If burning is the means of slash or competitive vegetation treatment used, it should be accomplished in such ways and at such times that reproduction and residual timber, humus and sort surface are adequately protected.

(6)(a) No landowner or operator shall burn in a riparian area along a Class I water;

(b) When burning in riparian areas of influence, landowners and operators shall protect aquatic and wildlife habitat such as downed logs and snags.

(7) Whenever disposal of slashing is to be accomplished by burning, such burning shall be accomplished under such conditions of weather that will assure adequate maintenance of air quality. Burning shall be done In accordance with the rules of Oregon’s “Smoke Management Plan”.

*State effective: 8/1/1987; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

## **DIVISION 48**

### **SMOKE MANAGEMENT**

#### **629-048-0001 Title, Scope and Effective Dates**

(1) OAR 629-048-0001 through 629-048-0500 are known as the Smoke Management rules.

(2) The Smoke Management rules apply to prescribed burning of forest fuels for forest management purposes within any forest protection district in Oregon as described by OAR 629-041-0500 to 629-041-0575.

(3) The Smoke Management rules are effective March 1, 2019

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

#### **629-048-0005 Definitions**

Unless otherwise defined below, terms used in this rule division shall have the meaning provided in ORS 477.001:

(1) “Alternatives to burning” means any forest management activity that reduces the volume of material, rather than actually being burned.

(2) “Board” means the State Board of Forestry.

(3) “Burn boss” means the person, authorized by the owner (may include the owner) or a federal land management agency to conduct and make decisions regarding the practices involved in conducting a prescribed burning operation and who is responsible for compliance with all requirements under this rule division and related laws.

- (4) “Burn registration” means the act or product of notifying the forester to the required level of detail, of intent to conduct a prescribed burning operation as required by OAR 629-048-0300.
- (5) “Class I Area” means national parks and certain wilderness areas designated by Congress in 1977 as federal Class I Areas that are subject to visibility protection under the Environmental Protection Agency’s Regional Haze Rule and the federal Clean Air Act. Class I Areas in Oregon include: Crater Lake National Park, Diamond Peak Wilderness, Eagle Cap Wilderness, Gearhart Mountain Wilderness, Hells Canyon Wilderness, Kalmiopsis Wilderness, Mountain Lakes Wilderness, Mount Hood Wilderness, Mount Jefferson Wilderness, Mount Washington Wilderness, Strawberry Mountain Wilderness and Three Sisters Wilderness.
- (6) “Class 1 forestland” has the same meaning as given in ORS 526.324 to “timber class” and includes all forestland primarily suitable for the production of timber.
- (7) “Class 2 forestland” has the same meaning as given in ORS 526.324 to “timber and grazing class” and includes all forestland primarily suitable for joint use for timber production and the grazing of livestock, as a permanent or semi-permanent joint use, or as a temporary joint use during the interim between logging and reforestation.
- (8) “Class 3 forestland” has the same meaning as given in ORS 526.324 to “agricultural class” and includes all forestland primarily suitable for grazing or other agricultural use.
- (9) “Department” means the Oregon Department of Forestry (ODF).
- (10) “Eastern Oregon” means the eighteen Oregon counties lying east of Multnomah, Clackamas, Marion, Linn, Lane, Douglas, and Jackson Counties.
- (11) “Emission reduction technique” means any forest management activity that allows for a lower volume of particulate to be produced from a given volume of burning.
- (12) “Emissions” means the gaseous and particulate combustion products in smoke resulting from burning forest fuels.
- (13) “Federal land management agency” means the United States Department of Agriculture’s Forest Service; the United States Department of the Interior’s Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, or Bureau of Indian Affairs; or any other federal agency that may conduct prescribed burning within a forest protection district.
- (14) “Field administrator” means an ODF employee, a forest protective association, or federal land management agency who has, among other responsibilities, an official role in determining whether a prescribed burn should proceed, continue or be suspended.

- (15) “Forester” means the State Forester or authorized representative including but not limited to fire wardens appointed under ORS 477.355.
- (16) “Forest fuels” means any flammable woody material, grass or other plant matter that may constitute a wildfire hazard or that is intended for disposal by prescribed burning, but does not include products that have had secondary processing such as boards, posts or paper.
- (17) “Forest protection district” means an area of forestland designated by the State Forester for protection from fire pursuant to ORS 477.225. Detailed descriptions of the forest protection districts may be found in OAR 629-041-0500 to 629-041-0575.
- (18) “Ground level” means at or close to the surface of the earth such that smoke at “ground level” could be inhaled by persons going about their normal business, in or out of doors. It does not include smoke that passes overhead when prescribed burning is conducted in accordance with the Smoke Management forecast and instructions.
- (19) “Level 1 regulation” means the program of requirements that apply to all forestland managed by a federal land management agency statewide, and all Class 1 forestland in western Oregon within a forest protection district (OAR 629-048-0100(2)). These requirements include burn registration at least seven days in advance (OAR 629-048-0300), fee administration (OAR 629-048-0310), compliance with Smoke Management forecast instructions (OAR 629-048-0230), and reporting of accomplishments (OAR 629-048-0320).
- (20) “Level 2 regulation” means the program of requirements that apply to all non-federal forestlands in eastern Oregon, and all Class 3 forestland in western Oregon within a forest protection district (OAR 629-048-0100(3)). These requirements include burn registration (OAR 629-048-0300) and reporting of accomplishments (OAR 629-048-0320).
- (21) “Mop-up” means action, usually involving the application of water or other means to eliminate heat, remove fuel or reduce the supply of oxygen, sufficient to make a fire safe or reduce residual smoke.
- (22) “Other areas sensitive to smoke” means specific recreation areas not listed as SSRAs in OAR 629-048-0140 but that are intended to receive consideration for focused forecasting attention for limited times during periods of heavy use by the public such as coastal beaches on holidays and other areas during special events.
- (23) “Prescribed burning” means the use of fire ignited as a planned management activity on forestland to meet specific objectives involving the reduction or removal of forest fuels. Prescribed burning does not include impromptu fires ignited for purposes such as warming fires, burn-out or backfire operations used in wildfire suppression, or lightning ignited “wildland fire use” as practiced by federal land management agencies.
- (24) “Regional haze” means air pollution transported over long distances into Class I Areas that reduces visibility in those areas.

(25) “Residual smoke” means smoke produced after the initial fire has passed through the fuel.

(26) “Smoke Sensitive Receptor Area or SSRA” means an area designated for the highest level of protection under the Smoke Management Plan, as described and listed in OAR 629-048-0140.

(27) “Smoke intrusion” means the verified entrance of smoke from prescribed burning into an SSRA at ground level that averages at or above 70 micrograms per cubic meter of particulate matter of 2.5 microns or less (PM2.5) for any one-hour period and/or averages at or above 26 micrograms per cubic meter for a 24-hour period, measured from midnight to midnight.

(28) “Smoke incident” means the verified entrance of smoke from prescribed burning into an SSRA at levels below a smoke intrusion (see “smoke intrusion” definition), other areas sensitive to smoke, or a community other than an SSRA.

(29) “Smoke Management forecast unit” means any or all of the persons appointed or assigned by the State Forester to develop and interpret weather forecasts and produce Smoke Management instructions, usually operating from the department headquarters in Salem.

(30) “Underburning” means low-intensity prescribed burning to maintain forest health through reduction of fuels in the understory of a forest stand while maintaining the over story stand characteristics.

(31) “Vulnerable populations” means people with specific sensitivities including, but not limited to, those with heart diseases, coronary artery disease, congestive heart failure, or those with lung and respiratory diseases, such as chronic obstructive pulmonary disease (COPD), and those with asthma, older adults, pregnant women, and children.

(32) “Western Oregon” means the eighteen Oregon counties lying west of Hood River, Wasco, Jefferson, Deschutes and Klamath Counties.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

## **629-048-0010 Purpose**

(1) ORS 477.013 requires the State Forester and the Department of Environmental Quality (DEQ) to approve a plan for managing smoke in areas that they are to designate, for the

purpose of maintaining air quality. The plan must designate areas within which all burning must comply with the plan.

(2) The Smoke Management rules are intended to establish the areas required by ORS 477.013; describe the objectives of the Smoke Management Plan; establish procedures to be followed in administering prescribed burning; educate the public as to the necessity of prescribed burning and the measures being taken to protect air quality, public health and visibility; and to provide enforceable mechanisms to ensure the requirements of the Smoke Management Plan are met.

(3) The Smoke Management rules, promulgated by the State Forester, together with Department Directive 1-4-1-601, “Operational Guidance for the Oregon Smoke Management Program,” shall comprise the Smoke Management Plan upon approval by DEQ and filing with the Secretary of State.

(4) The objectives of the Smoke Management Plan are to:

(a) Minimize smoke emissions resulting from prescribed burning as described by ORS 477.552;

(b) Provide maximum opportunity for essential forestland burning;

(c) Protect public health by avoiding intrusions;

(d) Coordinate with other state smoke management programs;

(e) Comply with state and federal air quality and visibility requirements; and

(f) Promote the further development of techniques to minimize or reduce emissions by encouraging cost-effective utilization of forestland biomass, alternatives to burning and emission reduction techniques.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

## **629-048-0020 Necessity of Prescribed Burning**

(1) ORS 477.005 declares that the public policy of the State of Oregon is to preserve forests “through the prevention and suppression of forest fires.” Prescribed burning is an important tool used to reduce forest fuels, re-introduce fire on the landscape, and has been demonstrated to reduce the potential for a fire to start or reduce its severity. It has also been

demonstrated that fire suppression actions are more effective and lower in cost in areas with a recent history of burning.

(2) As a part of the natural ecology of forestlands, wildfire is neither necessarily good nor bad. In fire-dependent ecosystems, frequent wildfire serves to limit spread of subsequent fires. However, there are a number of undesirable characteristics of unplanned, uncontrolled fires. Among these are threats to public safety, destruction of natural resources and property, and the adverse health effects that can occur from breathing a significant amount of fine particulate matter associated with wildfire smoke.

(3) When areas do not experience fire or other means of reducing forest fuels for extended periods, wildfire hazard increases. The likelihood increases if unplanned ignitions occur, through whatever means, the resulting wildfire will burn at greater intensity and be more difficult to suppress.

(4) Because wildfires typically burn during hotter, drier conditions than those usually planned for prescribed fires, forest fuels are more completely consumed, producing more emissions. Also, wildfires often occur during periods of atmospheric stability, trapping smoke close to the ground where it's more likely to impact humans.

(5) Prescribed burning is an important forest management technique in all of Oregon's forests to reduce forest fuels for the purposes of both short term and long term fire prevention and to aid in fire suppression. Prescribed burning is typically conducted when weather conditions allow fine fuels to readily ignite while larger fuels are consumed to a lesser degree than in a wildfire. Resulting emissions are reduced and dissipated quickly, before affecting populated areas.

(6) When forest fuel reduction can be achieved economically without using prescribed burning, that choice is usually favored. Even so, there are often silvicultural or agricultural advantages to prescribed burning such as site preparation, nutrient cycling and reduction of pests and disease that may not be achieved by simply removing the forest fuels. For all these reasons described above, the Legislative Assembly (ORS 477.552) and Board of Forestry have found it necessary to maintain prescribed burning as a forest management practice.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

## **629-048-0021 Necessity of Safeguarding Public Health**

(1) Excessive smoke, no matter its source, can pose a serious health risk to the public, especially vulnerable populations.



(2) To help minimize the health risks to the public from prescribed burning, the program encourages prescribed burning emissions be minimized and smoke intrusions be avoided.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

### **629-048-0100 Regulated Areas**

(1) All lands classified as “forestland” under ORS 526.305 to 526.370 and all forestland managed by a federal agency regardless of whether or not classified, within a forest protection district, are subject to regulation of prescribed burning pursuant to 477.013. The level of regulation may vary according to specific classification; e.g., Class 1, 2 or 3 forestland as described in 526.305 to 526.370.

(2) Class 1 forestland in western Oregon, and all forestland managed by a federal land management agency statewide, within a forest protection district, is subject to burn registration at least seven days in advance (OAR 629-048-0300), fee administration (629-048-0310), compliance with Smoke Management forecast instructions (629-048-0230), and reporting of accomplishments (629-048-0320). The forestlands and applicable regulations listed in this section may be referred to as “Level 1 regulation.”

(3) All other non-federal forestland within a forest protection district, including, but not limited to, private forestlands in eastern Oregon and Class 3 private forestland in western Oregon is subject to burn registration (OAR 629-048-0300) and reporting of accomplishments (629-048-0320) but is not subject to fee administration or compliance with smoke management forecast instructions. The forestlands and applicable regulations listed in this section may be referred to as “Level 2 regulation.”

(4) All prescribed burning on forestland within a forest protection district is subject to suspension of burning by the forester under ORS 477.520 due to conditions such as air stagnation or fire danger.

*State effective: 1/1/2008; EPA approval: 8/22/2012; 77 FR 50611; EPA effective: 9/21/2012*

### **629-048-0110 Characterization and Response to Smoke Incidents, Smoke Intrusions, and National Ambient Air Quality Standards (NAAQS) Exceedances**

(1)(a) When investigating or collecting information on smoke incidents or smoke intrusions, the department will attempt to characterize the impact as either a smoke intrusion or a smoke incident as defined in OAR 629-048-0005.

(b) As used in the Smoke Management rules, "smoke intrusion" refers only to ground level prescribed burning smoke that enters an SSRA at particulate matter values defined in OAR 629-048-0005(27).

(2) When measurements or observations are available, smoke incidents or smoke intrusions are characterized based on particulate matter values over a one-hour average period, or a 24-hour average period from midnight to midnight.

(3) When no particulate matter data are available, smoke incidents or smoke intrusions are

determined based on reduction in visibility averaged over a one-hour period using standard National Weather Service visibility observation criteria (Federal Meteorological Handbook No. 1) and a table of reductions keyed to various background visibility levels as displayed in Department Directive 1-4-1-601, “Operational Guidance for the Oregon Smoke Management Program.”

(4) Smoke incidents and smoke intrusions will be documented and used to assess annual program performance. Department Directive 1-4-1-601 “Operational Guidance for the Oregon Smoke Management Program” will describe applicable reporting requirements and actions to be taken.

(5) Smoke intrusions that average at or above the 24-hour average PM<sub>2.5</sub> value of 35 microgram per cubic meter (NAAQS exceedance) will be reported to DEQ as soon as possible. Department Directive 1-4-1-601 “Operational Guidance for the Oregon Smoke Management Program” will describe applicable reporting requirements and adaptive management actions to be taken if this event occurs.

[ED. NOTE: Department Directive 1-4-1-601 “Operational Guidance for the Oregon Smoke Management Program.” is available online at:

<http://www.oregon.gov/ODF/Documents/Fire/smd.pdf>]

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

## **629-048-0120 Air Quality Maintenance Objectives**

(1) When prescribed burning is conducted near, but outside communities or areas designated as SSRAs, the objective of the Smoke Management Plan is to minimize emissions and avoid smoke intrusions into the SSRA.

(2) When prescribed burning is conducted inside an SSRA, the Smoke Management Plan objective is to use best burn practices and prompt mop-up, as appropriate, along with tight parameters for burn-site conditions that are intended to vent the main smoke plume up and out of the SSRA and minimize residual smoke.

(3) In all other instances of prescribed burning it is the intent under the Smoke Management Plan to minimize the amount and duration of smoke that comes in contact with humans where they live, work or gather in public.

(4) The first element in minimizing smoke contact is encouraging forestland owners to burn only those units which cannot otherwise meet forest management objectives in cost-effective alternative ways such as wood or biomass utilization.

(5) When prescribed burning is used, owners are further encouraged to employ the emission reduction techniques described in OAR 629-048-0210 to ensure the least emissions practicable.

(6) In addition to compliance with Smoke Management instructions issued in the daily forecast and compliance with all conditions of the burn permit required under ORS 477.515, burn bosses and field administrators are encouraged to closely observe local conditions at the

burn site. They should alter or suspend lighting if necessary, and mop-up burns, when appropriate, in a manner that takes into consideration the possible smoke effects from the main smoke plume or significant residual smoke on residences or businesses that may be near the burn site.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

### **629-048-0130 Visibility Objectives**

- (1) It is the intent under the Smoke Management Plan to comply with the Oregon Visibility Protection Plan (OAR 340-200-0040, Section 5.2).
- (2) It is the intent under the Smoke Management Plan to operate in a manner consistent with the Oregon Regional Haze Plan, including the Enhanced Smoke Management Program (ESMP) criteria contained in the plan, for the purpose of protecting Class I Area visibility. These ESMP criteria include:
  - (a) Actions to minimize emissions;
  - (b) Evaluation of smoke dispersion;
  - (c) Alternatives to fire;
  - (d) Public notification;
  - (e) Air quality monitoring;
  - (f) Surveillance and enforcement;
  - (g) Program evaluation;
  - (h) Burn authorization; and
  - (i) Regional coordination.
- (3) When prescribed burning is conducted outside any Class I Area, an objective of the Smoke Management Plan is to minimize any smoke that impairs visibility inside the Class I Area. In addition to compliance with Smoke Management instructions issued in the daily forecast and compliance with all conditions of the burn permit required under ORS 477.515, burn bosses and field administrators are encouraged to closely observe local conditions at the burn site to avoid the main smoke plume entering a Class I Area at ground level.
- (4) When prescribed burning is conducted inside a Class I Area, the Smoke Management Plan objective is to use best practices along with tight parameters for burn site conditions that will vent the main smoke plume up and out of the Class I Area and minimize residual smoke.

*State effective: 7/11/2014; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

### **629-048-0135 Special Protection Zone Requirements**

Special Protection Zones (SPZ) have been established around certain communities (see maps located within Department Directive 1-4-1-601, “Operational Guidance for the Oregon Smoke Management Program, Appendix 5” requiring additional protection from particulates. Any burning in an SPZ, during its protection period, must have the approval of the meteorologist. These SPZ provisions apply from November 15 through February 15 to the following communities which are particulate matter (PM) nonattainment or maintenance areas: Klamath Falls, Medford, Oakridge, and Lakeview.

(1) From November 15 through February 15, prescribed burning in the SPZ is allowed on “Green” and “Yellow” woodstove days (see OAR 340-262-0800 and local ordinances for communities listed above) if:

(a) The ODF Smoke Management meteorologist believes smoke impacts will not exceed smoke intrusion levels.

(b) Landowners are responsible for intermittent monitoring for at least three days following ignition to ensure the smoke is not causing an impact that could exceed smoke intrusion levels. ODF can waive this provision if it believes monitoring is unnecessary on a specific burn unit due to limited smoke production.

(c) Landowners provide a level of mop-up, as directed by ODF, to minimize smoke impacts to levels below a smoke intrusion. Mop-up shall be included as an element of the burn plan.

(2) From December 1 through February 15, no prescribed burning is allowed on “Red” woodstove days in the SPZ. Prescribed burning on “Red” days from November 15 through 30 is allowed and subject to the same conditions for “Green” and “Yellow” days as described in section 1(a-c) of this rule.

(3) Districts and Forests having jurisdiction in any SPZ will be responsible for monitoring restrictions in the nonattainment or maintenance area as described in section 1 and 2 of this rule.

(4) SPZ provisions shall apply as long as the area is in PM nonattainment or is in maintenance of the PM standard. An SPZ shall be developed by DEQ or Lane Regional Air Protection Agency (LRAPA) for any newly declared PM nonattainment area, in consultation with ODF. For areas declared nonattainment from January 1 through May 31, the new SPZ requirements shall become effective on November 15 in the year the area is declared nonattainment. If the area is declared nonattainment from June 1 through December 31, the new SPZ shall be effective on November 15 of the following year.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

### **629-048-0137 SPZ Contingency Plan Requirements**

In the event communities listed in OAR 629-048-0135 exceed the 24-hour average PM<sub>2.5</sub> National Ambient Air Quality Standard value of 35 micrograms per cubic meter during the SPZ provision period, and prescribed burning is determined to be a contributor using verification methods to include, but not limited to ground, aerial, or equipment monitoring,

the following contingency plan requirements shall be implemented:

- (1) The SPZ boundary will be expanded to include the area from which prescribed burning could impact the PM nonattainment or maintenance area. Any boundary change will be jointly agreed to by ODF and DEQ.
- (2) SPZ restrictions will apply from November 1 through March 1.
- (3) The SPZ for Klamath Falls and Lakeview, as well as all future PM nonattainment or maintenance areas in areas of level 2 regulation under the Oregon Smoke Management Plan, shall be subject to burning reporting requirements of Level 1 regulation during the time when the SPZ is in effect.
- (4) ODF and DEQ will take adaptive management steps described in OAR 629-048-0110(5).

[ED. NOTE: Language in OAR 629-048-0135 and 0137 was previously in the Department Directive 1-4-1-601 “Operational Guidance for the Oregon Smoke Management Program.”]

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

#### **629-048-0140 Smoke Sensitive Receptor Areas**

A SSRA is an area designated by the board, in consultation with DEQ, which is provided the highest level of protection under the Smoke Management Plan. This is due to its past history of smoke incidents, density of population or other special legal status related to visibility such as the Columbia River Gorge Scenic Area. The following are SSRAs:

- (1) The area within the State of Oregon commonly understood to be the Willamette Valley that:
  - (a) Lies east of the forest protection district boundaries of the Northwest Oregon, West Oregon and Western Lane Forest Protection Districts, west of the forest protection district boundaries of the North Cascade and South Cascade Forest Protection Districts and north of where the Western Lane and South Cascade Forest Protection Districts come together in southern Lane County (for detailed district boundary descriptions, see OAR 629-041-0500 to 629-041-0575);
  - (b) Notwithstanding the actual location of the forest protection district boundaries, includes the area within the city limits of the following cities that straddle, or are within but immediately adjoin, the forest protection district boundary:
    - (A) Carlton;
    - (B) Corvallis;
    - (C) Cottage Grove;
    - (D) Dallas

- (E) Eugene;
- (F) McMinnville;
- (G) Portland;
- (H) Sheridan;
- (I) Silverton;
- (J) Springfield;
- (K) St. Helens;
- (L) Stayton;
- (M) Sublimity;
- (N) Veneta;
- (O) Willamina; and
- (P) Yamhill;
- (2) Within the acknowledged urban growth boundaries of the following cities:
  - (a) Astoria;
  - (b) Baker City;
  - (c) Bend;
  - (d) Burns;
  - (e) Coos Bay;
  - (f) Enterprise;
  - (g) Grants Pass;
  - (h) John Day;
  - (i) Klamath Falls;
  - (j) La Grande;

- (k) Lakeview;
- (l) Lincoln City;
- (m) Newport;
- (n) North Bend;
- (o) Oakridge;
- (p) Pendleton;
- (q) Redmond;
- (r) Roseburg;
- (s) The Dalles; and
- (t) Tillamook;

(3) The area within the Bear Creek and Rogue River Valleys described in OAR 629-048-0160, including the cities of Ashland, Central Point, Eagle Point, Jacksonville, Medford, Phoenix and Talent; and

(4) The area within the Columbia River Gorge Scenic Area, as described in 16 U.S.C. Section 544b, (2003).

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

### **629-048-0150 Criteria for Future Listing of Smoke Sensitive Receptor Areas**

To ensure continued accomplishment of the Smoke Management Plan objectives, additional SSRAs may be listed according to the following procedures:

- (1) Not more than once per calendar year, the board must consider additional SSRA listings if:
  - (a) ODF recommends consideration of a community for SSRA listing based on observations of repeated smoke incidents as described in section (5) of this rule;
  - (b) DEQ recommends consideration of a community for SSRA listing based on evidence of airborne particulate concentrations in the community at levels that make periodic NAAQS exceedances a significant possibility; or
  - (c) The governing body of a city, or county for an unincorporated area, requests by official action consideration of a community for SSRA listing, and cites the reasons for its request upon:

(A) The occurrence of a smoke incident as described in section (5) of this rule lasting more than four hours; or

(B) Repeated smoke incidents as described in section (5) of this rule in the same calendar year.

(2) When considering whether to list a community as an SSRA, the board shall evaluate the evidence presented to it, including any information received at one or more public meetings.

(a) Specifically, the board shall consider information regarding:

(A) The frequency, duration and magnitude of smoke incidents;

(B) Population of the community;

(C) The results, if any, of mechanical or systematic monitoring of airborne particulate concentrations, or other verifiable information regarding existing air quality problems in the community under consideration;

(D) The nature and performance of any local programs addressing airborne particulate concentrations;

(E) Recent trends in, and future plans for, prescribed burning activity on surrounding forestlands;

(F) Any local topographic or meteorological effects that may influence the frequency, duration or magnitude of smoke incidents;

(G) Evaluation of the local and regional effect that listing the community as an SSRA will have on the Smoke Management Plan's objectives of maintaining air quality and accomplishing necessary prescribed burning;

(H) The reasons cited in a request received under subsection (1)(c) of this rule;

(I) The joint recommendations of the department and DEQ regarding whether the community should be listed and why; and

(J) Any other information that is relevant to accomplishing the objectives of the Smoke Management Plan.

(b) If joint recommendations are not achieved under paragraph (2)(a)(I) above, the department shall prepare a report for the board detailing any differences in recommendations and its explanations for the differences.

(3) After considering the evidence presented to it, except as provided in section (4) of this rule, the board may take any one of the following actions:



- (a) Reject the recommendation or request;
  - (b) Acknowledge that smoke incidents have occurred, but direct the department to pursue an alternate course of further information gathering, monitoring, operational modifications or other efforts aimed at reducing the likelihood of continuing smoke incidents; or
  - (c) Accept the recommendation or request by defining the applicable boundaries of the community to be listed, directing the department to begin treating the community as an SSRA and following a timely process to amend OAR 629-048-0140 accordingly.
- (4)(a) The board's choice of actions shall be limited to those described in either subsections (b) or (c) of this section, if it finds that all of the following circumstances exist:
- (A) The community proposed for listing has incurred repeated smoke incidents as described in section (5) of this rule;
  - (B) The community is a city with a population in excess of 10,000 within the incorporated city limits, according to the most recently published population estimate of the Population Research Center, Portland State University; and
  - (C) There is a likelihood of continuing frequent use of prescribed burning as a forest management activity on forestland within 30 miles of the city limits.
- (b) For communities with no air quality monitoring data, the board may delay a final action determining whether to list the community as an SSRA if monitoring equipment is installed in the community to gather information leading to a final determination; or
  - (c) The board may define the applicable boundaries of the community to be listed, direct the department to begin treating the community as an SSRA and follow a timely process to amend OAR 629-048-0140 accordingly.
- (5) "Repeated smoke incidents" as used in this rule refers to two or more smoke incidents that meet or exceed the level of a smoke intrusion in one calendar year.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

## **629-048-0160 Bear Creek/Rogue River Valley SSRA**

The Bear Creek and Rogue River Valley smoke sensitive receptor area listed in OAR 629-048-0140 (3) is defined as beginning at a point approximately one mile NE of the town of Eagle Point, Jackson County, Oregon, at the NE corner of Section 36, T35S, R1W; thence south along the Willamette Meridian to the SE corner of Section 25, T37S, R1W; thence SE to the SE corner of Section 9, 39S, R2E; thence SSE to the SE corner of Section 22, T39S, R2E; thence south to the SE corner of Section 27, T39S, R2E; thence SW to the SE corner of Section 33, T39S, R2E; thence west to the SW corner of Section 31, T39S, R2E; thence NW to the NW corner of Section 36, T39S, R1E; thence west to the SW corner of Section 26, T39S, R1E; thence NW to the SE corner of Section 7, T39S, R1E; thence west to the SW corner of

Section 12, T39S, R1W; thence NW to the SW corner of Section 20, T38S, R1W; thence west to the SW corner of Section 24, T38S, R2W; thence NW to the SW corner of Section 4, T38S, R2W; thence west to the SW corner of Section 5, T38S, R2W; thence NW to the SW corner of Section 31, T37S, R2W; thence north to the Rogue River, thence north and east along the Rogue River to the north boundary of Section 32, T35S, R1W; thence east to the point of beginning.

*State effective: 1/1/2008; EPA approval: 8/22/2012; 77 FR 50611; EPA effective: 9/21/2012*

## **629-048-0180 Communication, Community Response Plans, and Exemption Requests**

(1) ODF Salem headquarters office shall develop and distribute a best-practices communication framework for dissemination through local ODF and federal district offices to their respective local public health authority. The communications framework shall include general information regarding:

- (a) The purpose and importance of prescribed burning,
- (b) The health risks of wildfire and prescribed fire smoke,
- (c) Recommendations for the public and vulnerable populations to reduce their exposure to smoke,
- (d) How local officials and the public can find out about current and upcoming prescribed burns planned in their area, and
- (e) How residents of an SSRA and other interested persons can get up-to-date information about anticipated smoke impacts in specific SSRAs.

(2) ODF and DEQ recommend communities that are SSRAs and have experienced repeated smoke incidents and/or intrusions in the past collaboratively develop a community response plan and program.

(a) The information in the plan and program includes, but is not limited to the following:

(A) A description of populations in an SSRA community that are vulnerable to the health effects of short-term smoke;

(B) Adequate means by which the public, especially vulnerable populations in the SSRA community, will be notified in a clear and reliable way of anticipated smoke impacts in a timely manner;

(C) Adequate options for protecting the health of vulnerable populations (or helping such populations to protect themselves) from short-term exposure to smoke; and

(D) A plan and program for communications between the entities that conduct prescribed fire, the local public health authority, and the community's public and vulnerable populations who may be impacted by smoke.

(b) The community response plan should be coordinated through the local public health authority, but developed collaboratively with members or representatives of vulnerable populations, community officials, representatives from entities that have responsibility for prescribed fire, forest restoration collaborative groups, local businesses, and other interested members of the public.

(c) The plan shall include a public communication and education strategy as outlined in the communication framework in (1).

(3) SSRA communities that develop and implement such a plan that meets the criteria outlined in (2) may request an exemption from the one-hour average smoke intrusion threshold. An exemption to the one-hour smoke intrusion threshold means that smoke impacts that surpass the one-hour threshold, but not the 24-hour average threshold, shall be deemed smoke incidents, not smoke intrusions, in the SSRA.

(a) The request for exemption must be made by the community's local governing body in coordination with their County Board of Commissioners.

(b) The request for exemption will be considered for approval by ODF and DEQ under the advisement of Oregon Health Authority. The exemption shall be granted within 30 days of submission unless ODF and DEQ agree that the plan does not comply with the criteria in (2).

(c) If ODF and DEQ determine the plan does not comply with the above criteria, they shall, within 30 days of submission, provide a written explanation of the reasons for denial.

(d) ODF and DEQ may revoke the exemption if there are repeated (three or more in five years) smoke intrusions that exceed the 24-hour average threshold or prescribed burning contributes to two or more NAAQS exceedances.

(e) ODF and DEQ will revoke the exemption if the SSRA is within one exceedance of a NAAQS violation. SSRAs that are in a NAAQS violation (nonattainment) will not be eligible for an exemption.

(f) In addition, SSRAs that have received an exemption must demonstrate they are implementing their community response plan through an annual report provided by the local health authority detailing:

(A) Compliance with requirements in (2);

(B) A summary of methods used to communicate to the public and vulnerable populations;

(C) A log of dates and times the community initiated their response plan;

(D) A record of local meetings to discuss or update the community response plan.

(g) An SSRA that has their exemption revoked may reapply for the exemption after a year provided all conditions stated in (3) have been met.

## **629-048-0200 Alternatives to Burning**

(1) When planning forest management prescriptions and particularly final harvests (prior to reforestation), owners are encouraged to use practices that will eliminate or significantly reduce the volume of prescribed burning necessary to meet their management objectives. Some practices to consider include, but are not limited to:

- (a) Maximizing the cost-effective use of woody material for manufacture of products;
- (b) Where cost-effective, using wood or other biomass for energy production or mulch;
- (c) Lopping and scattering limbs and other woody material, or operating heavy machinery over the wood to maximize contact with the soil in order to speed its breakdown; or
- (d) Re-arranging woody materials, as necessary to accomplish reforestation through the slash (from a fire prevention standpoint, this may not be desirable in areas of heavy fuel concentrations or where soil moistures are not conducive to breakdown of fuels).
- (e) Removing or minimizing large fuel concentrations and heavy fuel loading to minimize smoldering.

(2) When prescribed burning is determined to be necessary to achieve forest management objectives, owners are encouraged to use emission reduction techniques as described in OAR 629-048-0210.

(3) Prior to registration, forestland managers are strongly encouraged to consult the following:

(a) "Non-burning Alternatives to Prescribed Fire on Wildlands in the Western United States" at <http://www.wrapair.org/forums/fejf/tasks/FEJFtask3.html> (Western Regional Air Partnership, February, 2004);

(b) The Oregon Forest Industry Directory website provides information on potential markets for woody material at [www.orforestdirectory.com/](http://www.orforestdirectory.com/); and

(c) "Forest Biomass Analysis for Western States by County" by Phillip S. Cook and Jay O'Laughlin (Western Governors' Association, January 24, 2011), at: [https://www.researchgate.net/profile/Jay\\_Laughlin/publication/266451188\\_Forest\\_Biomass\\_Supply\\_Analysis\\_for\\_Western\\_States\\_by\\_County\\_Final\\_Report\\_to\\_the\\_Western\\_Governors\\_Association/links/55b0ead208ae9289a0849d62/Forest-Biomass-Supply-Analysis-for-Western-States-by-County-Final-Report-to-the-Western-Governors-Association.pdf](https://www.researchgate.net/profile/Jay_Laughlin/publication/266451188_Forest_Biomass_Supply_Analysis_for_Western_States_by_County_Final_Report_to_the_Western_Governors_Association/links/55b0ead208ae9289a0849d62/Forest-Biomass-Supply-Analysis-for-Western-States-by-County-Final-Report-to-the-Western-Governors-Association.pdf)

(4) As described in 629-048-0450(2)(c), the department shall complete an annual report summarizing the use of alternatives to burning.

## **629-048-0210 Best Burn Practices; Emission Reduction Techniques**

(1) "Best burn practices" as used in this rule refers to those practices designed to minimize emissions from prescribed burning or accomplish burning at times and under such conditions as to minimize the likelihood that emissions will have adverse effects to the air quality maintenance or visibility objectives (OAR 629-048-0120 and 629-048-0130). Additional practices not described in this rule may be necessary to ensure against the escape of fire or protection of forest resources.

(2) In general, best burn practices involve methods that ensure the most rapid and complete combustion of forest fuels while nearby, "non-target" fuels are prevented from burning, such as:

- (a) Physical separation of "target" and "non-target" fuels;
- (b) Burn prescriptions, particularly for broadcast burns, that recognize and utilize the natural differences in fuel moistures of larger and smaller pieces of woody material; or
- (c) Covering of piles sufficient to facilitate ignition and complete combustion, and then burning them at times of the year when all other fuels are damp, when it is raining or there is snow on the ground.

(3) Rapid combustion is well served by rapid ignition which may involve the use of petroleum accelerants (with appropriate safety precautions) and by maintaining an adequate air supply to the forest fuels being burned. Piles and windrows should be mostly free of soil, rocks and other non-combustible materials and should be loosely stacked to promote aeration. Where practicable, re-stacking or "feeding" the burn pile is encouraged to complete combustion and avoid smoldering.

(4) When piles are covered as a best burn practice and the covers are to be removed before burning, any effective materials may be used, as long as they are removed for re-use or properly disposed of. When covers will not be removed and thus will be burned along with the piled forest fuels, the covers must not consist of materials prohibited under OAR 340-264-0060(3), except that polyethylene sheeting that complies with the following may be used:

- (a) Only polyethylene may be used. All other plastics are prohibited;
- (b) The size of each polyethylene cover may vary as necessary to achieve rapid ignition and combustion.

(5) The use of petroleum accelerants and polyethylene covers as "best burn practices" described in this rule is expressly intended as an exception to OAR 340-264-0060(3) as allowed by 340-264-0060.

(6) In general, rapid mop-up of prescribed burning is not needed to meet the objectives of the prescribed burn and protect air quality. However, in instances of prescribed burning within an SSRA or when conditions change significantly from those forecasted or present at the time of ignition, rapid mop-up may become necessary to prevent a smoke intrusion. Burn plans required under OAR 629-043-0026(4), prescribed fire plans required by federal land management agency policy, or burn permits required under ORS 477.515, when appropriate, should address conditions that may require mop-up of the prescribed burn and to what extent.

(7) When local conditions for smoke dispersal appear to be better than forecasted, burn bosses and field administrators are encouraged to communicate such information to the Smoke Management forecast unit, to further the objective of accomplishing burning during the most favorable conditions.

(8) As described in 629-048-0450(2)(c), the department shall complete an annual report summarizing the use of emission reduction techniques.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

### **629-048-0220 Forecast Procedures**

(1) There are several concepts and procedural steps involved in accomplishing the Smoke Management Plan objectives, designed to maximize opportunities for accomplishing burning while minimizing the likelihood of public health effects or visibility impairment in Class I Areas. The following sections of this rule attempt to explain some of these concepts.

(2) The basic underlying mechanism in smoke management is the use of an understanding of atmospheric dynamics and combustion processes, in concert with current weather forecasts, to ensure that the bulk of emissions from prescribed burning are transported to areas of low or no adverse effect by:

(a) In the case of broadcast or large pile burning, generating heat rapidly so that the fuel is quickly consumed and emissions rise sufficiently above ground level to either:

(A) Become diluted and dispersed in the atmosphere via transport winds to areas of minimal impact; or

(B) Mix with the moisture in clouds and fall back to earth as precipitation; or

(b) In the case of low-intensity underburning or small piles under the forest canopy, managing the volume of material burned per unit of time and paying careful attention to surface winds to keep total emissions low and disperse the smoke to relatively unpopulated areas.

(3) For each day that prescribed burning is planned on forestland with Level 1 regulation, a weather forecast is prepared by meteorologists specializing in smoke management. By examining the atmospheric conditions predicted for the burn day, such as vent heights, mixing layers, wind speed and direction, as well as information about what level of pollutants

may already be present in a given area, the meteorologists determine if and where conditions will be favorable to accomplish burning.

(4) In addition to the weather forecast, specific information is required on the location of planned burns, and the tonnage of fuel that is expected to be consumed in a burn. This information is provided on a per unit basis at the time that burns are registered and planned with the forester (see OAR 629-048-0300).

(5) With knowledge of the information described above, and based on dispersion models that have been developed through time and experience, forecasters are able to reasonably predict how much smoke can be put into the atmosphere, and at what locations, without likelihood of threat to air quality objectives. This information is then converted into instructions to field administrators and burn bosses as to what tonnages, in what weather zones and at what distances from SSRAs prescribed burning may be permitted.

(6) The forecast and instructions are made available to field administrators and any interested parties by 3:15 p.m. each day, as necessary. Locally, planned burns are compared against the forecast and instructions, as well as any local prioritization of burns, to determine which burns, if any, will be permitted on the following day. If there are any changes in the forecast for the day of the burn, the Smoke Management forecast unit will make every effort to place a message on an automatic answering phone by 8:00 a.m.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

### **629-048-0230 Burn Procedures**

(1) Before any prescribed burning is initiated, burn bosses should have a well thought out plan that takes into account:

- (a) How weather will be monitored and changes in conditions will be communicated;
- (b) Resources needed and actions taken to reduce pre-burn fuel loadings to minimize emissions.
- (c) Resources necessary to accomplish ignition and ignition sequences;
- (d) Resources and methodology necessary to contain and control the fire and prevent its escape, including communications to access additional resources, if necessary; and
- (e) The Smoke Management forecast and how the burn will be conducted to minimize smoke entering SSRAs, other areas sensitive to smoke, and other communities.

(2) The forester may require that a written burn plan be prepared for approval under OAR 629-043-0026(4), prior to issuance of a burn permit. A prescribed fire plan is required under federal policy for all prescribed burning on federal lands.

(3) Prescribed burn operations with large tonnages (2000 tons or more) or burns that will occur over multiple days should be adequately planned and monitored to provide

opportunities to cease lighting and hold the existing burn within smaller compartments in order to mitigate undesirable smoke effects or changes in the actual burn conditions from those that were forecasted.

(4) For prescription burn units on forestland subject to Level 1 regulation, burn bosses must provide specific information to be transmitted to the Smoke Management forecast unit in a standard format acceptable to the forester, regarding unit location, method of burning, and fuel loading tonnages by the day of the burn. If additional burning is deemed possible after 10 a.m. in consultation with the forecast unit, the plan deadline may be extended.

(5)(a) Before ignition of any prescribed burning in a fire season (as designated by the forester under ORS 477.505), the burn boss must obtain a permit to burn from the forester as required by ORS 477.515 (not required for federal land management agencies). Federal land management agencies must follow agency policies that provide for an affirmative "go-no go decision" before ignition of any prescribed burning as documented and approved by the federal land management agency's line officer.

(b) A permit to burn from the forester is also required for all prescribed burning on non-federal Class 1 forestland in western Oregon at any time of the year.

(c) Under ORS 477.515(1)(a), the forester may waive the requirement for a burn permit in instances of burning other than described in subsections (a) and (b) of this section, so burn bosses should check with the forester locally to determine whether permits are required outside fire season.

(6) Before ignition of any prescribed burning on forestland subject to Level 1 regulation, the burn boss must obtain the current Smoke Management forecast and instructions and must conduct the burning in compliance with the instructions. Burn bosses must make provisions to be informed if the forecast or instructions are subsequently changed. Through communication among the burn boss, field administrator and the Smoke Management forecast unit, based on information specifically relevant to the burn location, a burn boss may obtain a variance from the instructions, but must document the time and method of communication and adhere strictly to the conditions of the variance.

(7) For prescribed burn operations with large tonnages (greater than 2000 tons) or burns that will occur over multiple days, burn bosses may request at least two days in advance that a special forecast and instructions be issued to ensure adequate attention to meeting Smoke Management Plan objectives. Issuance of a special forecast and instructions will be solely within the discretion of the Smoke Management forecast unit based on workload and sufficient local information to support the forecast.

(8) The Smoke Management forecast unit, in developing instructions, and each field administrator issuing burn permits are directed to manage the prescribed burning on forest land in connection with the management of other aspects of the environment in order to maintain a satisfactory atmospheric environment in SSRAs. This direction is to be applied to situations in which prescribed burning may impact SSRAs or other areas sensitive to smoke.

(9) Each burn boss or field administrator must validate that forecasted weather conditions are



consistent with actual on-site conditions prior to ignition of burns.

(10) A burn boss is required to stop ignition, in a manner that does not compromise worker safety or the ability to prevent escape of the burn, if either of the following occurs:

(a) The burn boss determines, or is advised by a field administrator, that an SSRA, or other area sensitive to smoke is already adversely affected by the burn or would likely become so with additional burning; or

(b) The burn boss receives notice from the forester, through the Smoke Management forecast unit, or following consultation with DEQ, that air in the entire state or portion thereof is, or would likely become adversely affected by smoke.

(11) Upon stopping ignition required by section (10) of this rule, any burning already under way should be completed, residual burning should be extinguished as soon as practicable, and no additional burning may be attempted until approval has been received from the forester.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

#### **629-048-0300 Registration of Intent to Burn**

(1) In all instances of prescribed burning on forestland within a forest protection district, the operator, federal land manager, landowner, or timber owner must first register with the forester all forestland that is intended to be burned. For forestland subject to Level 1 regulation, burn registration must be completed at least seven days before the first day of ignition. Mandatory registration of prescribed burning on forestland subject to level 2 regulation is effective January 1, 2009.

(2) The forester may waive the seven day waiting period required in section (1) of this rule contingent upon the forester's approval of a burn plan or conditions of federally prescribed fire policies having already been met.

(3) Information provided for burn registration must be complete and recorded in a standard format approved by the forester.

(4) No operator, federal land management agency, landowner or timber owner shall be allowed to register additional forestland for burning if payment for their previous registration or burning, when required pursuant to OAR 629-048-0310, is more than 90 days past due.

*State effective: 1/1/2008; EPA approval: 8/22/2012; 77 FR 50611; EPA effective: 9/21/2012*

#### **629-048-0310 Fees for Prescribed Burning**

(1) Any prescribed burning on forestland subject to level 1 regulation (OAR 629-048-0100) requires payment of a non-refundable registration fee of \$.50/acre and upon accomplishment (see section (3) of this rule), a burn fee as further described in sections (2), (3), (5), (6) and (8) below.

(2) Burn fees for all forms of prescribed burning, including but not limited to, broadcast burning and burning of piles (whether in-unit, on landings, or from rights-of-way) shall be assessed (where required) against the total acres in the unit from which the forest fuels were accumulated, as described in the burn registration.

(3) The first time that fire is applied to a prescribed burn unit, regardless of actual accomplishment, payment of a burn fee is required. Burn fees shall be charged according to the following schedule:

(a) If the registration of planned burning includes only landing or right-of-way piles, the burn fee shall be \$.50 per acre registered. Subsequent attempts to improve accomplishment only in landing or right-of-way piles in the same unit, in the same calendar year or the two following calendar years, shall not incur additional fees.

(b) If the registration of planned burning includes other than landing or right-of-way piles, the burn fee shall be \$3.10 per acre registered. Subsequent attempts to improve accomplishment in any portion of the same unit, in the same calendar year or the two following calendar years, shall not incur additional fees.

(c) If the registration of planned burning includes any combination of burn treatments that include landing or right-of-way piles with broadcast or in-unit pile burning, the burn fee shall be \$2.60 per acre for each in-unit treatment registered upon the first attempt of each treatment. Landing or right-of-way piles will be \$.50 per acre registered upon the first attempt to burn any of those piles. Subsequent attempts to improve accomplishment in any portion of the same unit, in the same calendar year or the two following calendar years, shall not incur additional fees.

(4) (a) As used in this rule, "landing" means any location logs are yarded to for processing (trimming ends or limbs and tops remaining after yarding) and assembling for forwarding or loading onto trucks, including each loading site that may occur along a road. Consequently, a landing pile contains only those residues resulting from the processing, and not additional forest fuels accumulated from growth on the site or the felling process.

(b) As used in this rule, "right-of-way piles" means any accumulated forest fuels that come only from the area cleared in the pioneering stage of road construction after appropriate utilization.

(5) Areas burned as a result of escaped fires that are outside the description of the registered burn area shall not be assessed fees if the fire outside of the described area is immediately attacked for wildfire suppression. If the fire outside of the described area is managed as a prescribed fire then every additional acre burned shall incur a registration fee of \$.50 per acre and a burn fee of \$3.10 per acre.

(6) Notwithstanding section (3) of this rule, forest health maintenance burning on forestland subject to Level 1 regulation, where significant fuel reduction has been accomplished through underburning within the last five years and where there are no piled forest fuels on the site, shall be charged a burn fee of \$.50 per acre.

(7) The forester shall prepare monthly billings to collect the appropriate registration and burn fees from the operator, federal land manager, landowner or timber owner whose name is recorded on the registration form for billing purposes.

(8) Notwithstanding sections (1) and (3) of this rule, each burn unit requires a minimum combined registration and burn fee of \$30. To reduce processing costs, the forester may elect to collect both registration and burn fees prior to accomplishment, for landing, right-of-way, or maintenance units less than 30 acres on one combined billing. The forester may elect to collect both registration and burn fees prior to accomplishment, for broadcast, underburning, or in-unit piles units less than 9 acres on one combined billing.

(9) Notwithstanding sections (1), (3) and (7) of this rule, in accordance with ORS 477.562(6), a federal land management agency may enter into a cooperative agreement with the forester for payment of registration and burn fees at an annual flat rate. The rate shall be based on estimated acres to be treated as a percentage of total acres on all ownerships, applied against the overall annual estimated operating cost of the Smoke Management Plan. Any such agreement shall have a provision that allows for periodic adjustment of the rate based on actual experience.

(10) Notwithstanding section (7) of this rule, any person or entity described in ORS 477.406(1) with a prior record of timely payment may, at the discretion of the forester, enter into a cooperative agreement for the efficient administration and payment of registration and burn fees provided all payments equal no less than the registration rate described in section (1) of this rule times the number of acres registered plus the burn fee rate in sections (3) or (6) of this rule, as appropriate, times the number of acres accomplished.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

## **629-048-0320 Reporting of Accomplishments**

(1) Accomplishment information for all prescribed burning that takes place on forestland within the regulated area described in OAR 629-048-0100 must be recorded in a manner that details the amount of burning each day and must be reported to the department according to the schedule described below and in standard formats prescribed by the forester.

(2) Prescribed burning on forestland subject to Level 1 regulation must be reported the next business day following each day's ignition as described in Department Directive 1-4-1-601, "Operational Guidance for the Oregon Smoke Management Program, Appendix 1."

(3) Prescribed burning on forestland subject to Level 2 regulation must be reported by the first business day of the week following ignition as described in Department Directive 1-4-1-601, "Operational Guidance for the Oregon Smoke Management Program, Appendix 1."

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

## **629-048-0330 Emission Inventories**

(1) In addition to the emissions information collected from prescribed burning under OAR 629-048-0320, the forester will annually estimate, using appropriate models and the best

available information on acres burned and fuel type, the emissions produced by wildfires in Oregon. At a minimum, the forester will attempt to collect information about wildfires that burn on forestlands within a forest protection district.

(2) Emissions information from prescribed burning and from wildfires will be maintained as distinct inventories, in appropriate forms, for analysis and distribution to improve the overall understanding of the relationships of wildfire versus prescribed fire emissions.

(3) The forester may include as much information on wildfires as may be readily available from the various protection agencies and other cooperators, provided that gathering of such information does not create an unfunded cost to the Smoke Management program.

*State effective: 1/1/2008; EPA approval: 8/22/20; 77 FR 50611; EPA effective: 9/21/2012*

#### **629-048-0400 Coordination with Other Regulating Jurisdictions and for Other Pollutants**

(1) In order to meet the air quality maintenance and visibility objectives of the Smoke Management Plan (OAR 629-048-0120 and 629-048-0130), it is important that the forester, field administrators and other cooperators be well informed as to the existence of, or potential for smoke or other airborne pollutants other than that which will be produced by any planned prescribed burning in the affected airshed. Local field administrators are encouraged to maintain working relationships with other local jurisdictions that authorize open burning or monitor air quality so that all parties may be adequately informed of planned burns or conditions that cumulatively might exceed standards or objectives.

(2) The forester is required to report the weather forecast, planned and accomplished burning and smoke intrusions, if any, to the Department of Environmental Quality for each applicable day, on a timely basis.

(3) Any wildfire that has the potential for smoke input into an SSRA or other area sensitive to smoke must be reported immediately by the local unit of the state or federal agency with jurisdiction for fire suppression to the State Forester's office.

(4) The Smoke Management forecast unit will communicate periodically with appropriate prescribed burning regulators in the surrounding states for the purpose of coordination and information sharing, as appropriate.

*State effective: 1/1/2008; EPA approval: 8/22/2012; 77 FR 50611; EPA effective: 9/21/2012*

#### **629-048-0450 Periodic Evaluation and Adaptive Management**

(1) The department is responsible for analysis and evaluation of the prescribed burning operations conducted under the Smoke Management Plan.

(2) Reports summarizing annual activities of the program shall be published by the department addressing:

- (a) The level of burning activity;
- (b) Smoke intrusions and smoke incidents;

- (c) PM2.5 NAAQS exceedances caused by prescribed burning and actions taken to prevent reoccurrence as described in OAR 629-048-0110(5).
  - (d) Accomplishment of alternatives to burning and the use of emission reduction techniques;
  - (e) Evaluation of overall Smoke Management Plan accomplishment;
  - (f) Evaluation of adequacy of listed SSRAs and protection measures;
  - (g) Any other pertinent information related to Smoke Management Plan evaluation and improvement; and
  - (h) Revenues generated from burn fees and related Smoke Management Plan costs.
- (3) Copies of the reports described in section (2) of this rule will be made available to all interested parties.
- (4) Upon publication of a report in accordance with section (2) of this rule, the forester will consult at least annually with the Smoke Management Advisory Committee created under ORS 477.556. Topics will include, but are not limited to, Smoke Management Plan implementation, status of the Oregon Forest Smoke Management Account (ORS 477.560), and any fee changes that may be appropriate based on the balance in this account.
- (5) ODF and DEQ will jointly review the Smoke Management Plan every five years unless there is agreement by both agencies that the plan can be reviewed at an earlier or later date, not to exceed 10 years from the previous review. Results of the review will be presented to the State Forester and the Director of Environmental Quality for joint consideration and approval. Representatives of affected agencies may assist the review at the discretion of the State Forester.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

## **629-048-0500 Enforcement**

- (1) Violations of the Smoke Management Plan may be enforced either as violations of the fire prevention statutes and rules (ORS 477.980 to 477.993) or as violations of the forest practice rules (ORS 527.680 to 527.690, 527.990 to 527.992 and OAR 629-670).
- (2)(a) When, in the judgment of the forester, a violation is related primarily to an act or omission that has caused or might cause fire to burn uncontrolled, enforcement under the provisions of the fire prevention statutes and rules is appropriate.
- (b) When, in the judgment of the forester, a violation is related primarily to an act or omission that has caused or might cause deterioration of air quality, enforcement under the provisions of the Forest Practices Act and rules (specifically, OAR 629-615-0300) is appropriate.

- (3) Enforceable standards within the Smoke Management Plan include requirements to:
- (a) Register burns prior to ignition (OAR 629-048-0230(4) and 629-048-0300);
  - (b) Obtain approval for and follow a burn plan (OAR 629-048-0230(2) and 629-043-0026(4);
  - (c) Obtain a burn permit and comply with any conditions included therein (OAR 629-048-0230(5) and ORS 477.515);
  - (d) Obtain and comply with daily Smoke Management instructions and updates (OAR 629-048-0230(6);
  - (e) Comply with restrictions regarding use of covers on burn piles (OAR 629-048-0210(4);
  - (f) Cease burning when directed by the forester (OAR 629-048-0100(4) and 629-048-0230(10);
  - (g) Report accomplishments (OAR 629-048-0320); and
  - (h) Pay fees (OAR 629-048-0310).

(4) Section 118 of the federal Clean Air Act provides for enforcement of state air quality regulations against federal agencies. It will be the policy of the Board of Forestry, in the event of a failure of a federal land management agency to comply with the Smoke Management Plan, that the forester will first inform the responsible agency of the failure and coordinate efforts to ensure timely correction of any breakdowns in procedure that may have resulted in the failure. However, if this method does not appear in the judgment of the State Forester to result in necessary correction of procedures, or under other circumstances that in the judgment of the State Forester warrant further action, enforcement action may be taken as with any other responsible party.

*State effective: 3/1/2019; EPA approval: 5/25/2021, [86 FR 27976](#); EPA effective: 6/24/2021*

## **DEPARTMENT OF OREGON STATE POLICE**

### **OFFICE OF STATE FIRE MARSHALL - CHAPTER 837**

#### **DIVISION 110 – FIELD BURNING AND PROPANING RULES**

##### **837-110-0010 Field Preparation**

(1) Prior to burning, all fields shall be prepared by providing a barrier around the perimeter free of combustibles.

(2) The barrier shall prevent any fire spread and shall be prepared by using one or more of the following methods:

(a) Plowing or disking a 17-foot strip around the field perimeter; or

(b) Plowing or disking a 5-foot strip around the field perimeter and the removal of loose, combustible straw from a 12-foot strip immediately adjacent to the 5 -foot strip; or

(c) Having a 17-foot strip of green cover crop or bare earth; or

(d) Retaining a least a 50 foot strip of green cover crop or bare earth in the immediately adjacent field(s) at the time of burning; or

(e) Other alternatives may be used with the specific written approval of the State Fire Marshal.

(3) The barrier need not be provided where the perimeter of the field lies adjacent to a field that meets the provision of this section.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0020 Firefighting Water Supplies**

(1) When burning acreage, the following firefighting vehicles shall be provided:

(a) Up to 50 acres - At least two water tank vehicles with a minimum of 1,000 gallon water capacity shall be on site;

(b) 50 to 200 acres - At least three water tank vehicles with a minimum of 1,500 gallon water capacity shall be on site;

(c) Over 200 acres - At least four water tank vehicles with a minimum of 3,000 gallon water capacity shall be on site.

(2) Refill Requirements: During actual firefighting operations the water requirements described in this section shall be maintained at or above 25 percent of the specified amount. Within the buffer zone described in OAR 837-110-0080, this requirement shall be raised to at least 50 percent.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0030 Firefighting Equipment**

The person(s) responsible for the acreage to be burned shall use firefighting equipment that meets or exceeds the following standards:

(1) All water tank vehicles shall be equipped with a pump in working order with a pumping capability of 30 gallons per minute or more and capable of extinguishing a flame at a distance of at least 40 feet.

(2) All required firefighting vehicles shall be adequately staffed to assure proper operation. It is recommended that at least two employees who have received basic safety training be assigned to each firefighting vehicle.

(3) All water tanks shall be filled to 90 percent of their capacity prior to ignition of the field.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0040 Ignition Criteria**

(1) To ensure an adequate, complete, and even burn over the entire field to be burned, a minimum of two drip torches, propane lighters, or other pressurized fuel torches shall be on the burn site at the time of ignition.

(2) Whenever possible ignition shall cause the edges of the field to burn first and the burn to continue toward the field's center.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0050 Prohibited Use**

The use of pitch forks, harrows, or the dragging of burning tires to ignite the fire is prohibited.

*State effective: 2/7/1989; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0060 Communication**

Radio communications shall be maintained between:

(1) All firefighting equipment utilized in the burning of the field(s).

(2) The crew at the burn site and a constantly manned base station or home that will receive a call for assistance and summon help from an appropriate emergency response agency.

*State effective: 2/7/1989; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0070 Fire Safety Watch**



In addition to the firefighting equipment required by OAR 837-110-0020 and 837-110-0030, a continuous fire safety watch shall be provided. The fire safety watch:

- (1) Shall patrol the perimeter of the field during burning operations.
- (2) Shall begin prior to the ignition of the field and continue for at least 30 minutes after open flame ceases. However, the fire watch shall not leave until it is confirmed that the fire is completely out.
- (3) Shall consist of at least one firefighting vehicle having a water tank with at least a 200 gallon water capacity and which meets the requirements of OAR 837-110-0030 and 837-110-0060.
- (4) May allow a field to burn up to the edge of a secondary road as long as there is a fire watch at both ends of the road during the time that the burning is occurring, in order to assure driver safety and divert traffic if necessary.
- (5) May allow burning of a field along a secondary road with fire watches, only if there are no combustibles or brush between the edge of the field and the secondary road.

**NOTE:** For purposes of these rules, secondary roads are rural minor collector roads and local roads as defined by the Federal Highway Administration and the Oregon Department of Transportation and quoted herein: (a) Rural collector roads - Generally serve travel of primarily inter county rather than statewide importance and constitute those routes on which (regardless of traffic volume) predominant travel distances are shorter than on arterial routes. (b) Rural minor collector roads - Roads that collect traffic from local roads and bring all developed areas within a reasonable distance of a collector road, provide service to the remaining smaller communities, and link the locally important traffic generators with their rural hinterland. (c) Rural local roads - Roads that serve primarily to provide access to adjacent land and provide service to travel over relatively short distances as compared to collectors or other highway systems.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0080 Fire Safety Buffer Zones**

A fire safety buffer zone shall parallel both sides of all highways and roadways within the scope and application of these rules. The buffer zone shall extend 1/2 mile in a perpendicular direction from the outer edge of each highway or roadway right-of-way. No field burning shall be allowed in fire safety buffer zones except as provided in sections (1) and (2) of this rule:

- (1) Interstate Highways west of the crest of the Cascade Range, south to the Douglas/Lane County lines:

(a) Field burning may be permitted in the fire safety buffer zone only where a 1/4 mile wide noncombustible ground surface is provided between the field to be burned *and* the nearest edge

of the freeway right-of-way. Noncombustible ground surfaces shall meet the criteria described in section (3) of this rule;

(b) The 1/4 mile noncombustible ground surface shall extend 1/4 mile each direction beyond the permitted field boundaries parallel to the freeway right-of-way.

(2) Other Roadways:

(a) Field burning may be permitted in the fire safety buffer zone only where a 1/8 mile wide noncombustible ground surface is provided between the field to be burned and the nearest edge of the highway right-of-way. Noncombustible ground surfaces shall meet the criteria described in section (3) of this rule;

(b) The 1/8 mile noncombustible ground surface shall extend 1/8 mile in each direction beyond the permitted field boundaries parallel to the highway right-of-way;

(c) The designated roadways to which this section applies are:

(A) ORE 99 - The section from Junction City to Eugene;

(B) ORE 99E - The sections from Oregon City to Salem and from Albany to Junction City;

(C) ORE 99W - The entire section from Portland to Junction City;

(D) US 20 - The section from Philomath to Lebanon;

(E) ORE 22 - The section from ORE 18 to Mehama;

(F) US 26 - The section from ORE 47 interchange to Portland;

(G) ORE 34 - The section from Corvallis to Lebanon.

(3) Noncombustible ground surfaces mentioned in subsections (1)(a) and (b) and (2)(a) and (b) of this rule may be provided by planting a noncombustible ground cover approved by the State Fire Marshal or by disking and plowing the surface. Other alternative methods may be recognized by the State Fire Marshal or designee.

(4) The Office of State Fire Marshal or designee with the concurrence of the Office of State Fire Marshal may grant specific written approval:

(a) Not to provide the extensions required by subsections (2)(a) and (b) of this rule, when natural barriers such as rivers or other noncombustible surfaces exists; or

(b) For the use of alternative methods to provide the noncombustible ground surfaces required by subsections (1)(a) and (b) and (2)(a) and (b) of this rule.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0090 Ban on Burning**

All field burning shall be banned when any two of the following criteria are present:

(1) Temperature of 95 degrees Fahrenheit or above;

(2) Relative humidity of 30 percent or below;

(3) Wind speed of 15 miles per hour or higher.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

## **PROPANING**

### **837-110-0110 Field Preparation**

(1) Prior to propaning, all fields shall be prepared by providing a bather around the perimeter free of combustible materials.

(2) The bather may be provided by green cover crop, bare earth, or other method(s) to prevent any fire spread, and shall be prepared by using one or more of the following methods:

(a) Plowing or disking a 10-foot strip around the field perimeter; or

(b) Plowing or disking a 5-foot strip around the field perimeter and removal of loose, combustible straw from a 12-foot strip immediately adjacent to the 5-foot strip; or

(c) Retaining at least a 50-foot strip of green crop or bare earth in the immediately adjacent field(s) at the time of propaning; or

(d) Having a 17-foot strip of green cover crop or bare earth; or

(e) Other alternatives may be used with the specific written approval of the State Fire Marshal.

(3) The bather need not be provided where the perimeter of the field lies adjacent to a field that meets the provisions of this section.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0120 Firefighting Water Supplies**

When propaning acreage, the following safety measures shall apply:

(1) At least one firefighting water tank vehicle meeting the equipment requirements of OAR 837-110-0120 through 837-110-0140 and which has a minimum water tank capacity of 200 gallons shall be on site.

(2) If additional firefighting assistance is more than five minutes from a burn site within a fire safety buffer zone, or ten minutes otherwise, then water tank capacity mentioned in section (1) of this rule shall be raised to 500 gallons.

(3) A means to refill the tanks mentioned in sections (1) and (2) of this rule shall be provided within a ten minute turn around time.

EXCEPTION: Water tank vehicles of smaller capacity may be used provided the total gallonage capacity complies with the above.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0130 Firefighting Equipment**

The person(s) responsible for the acreage to be propaned shall use firefighting equipment that meets or exceeds the following standards:

(1) All water tank vehicles shall be equipped with a pump in working order with a pumping capability of 30 gallons per minute or more and capable of extinguishing a flame at a distance of at least 40 feet.

(2) All required water tank vehicles shall be adequately staffed to assure proper operation. It is recommended that at least two employees who have received basic safety training be assigned to each firefighting vehicle.

(3) All water tanks shall be filled to 90 percent of their capacity prior to ignition of the field.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0140 Communication**

Radio communications shall be maintained:

(1) Between all firefighting equipment utilized in the propaning of the field(s);

(2) Between the crew at the propane site and a constantly manned base station or home that will receive a call for assistance and summon help from an appropriate emergency response agency.

*State effective: 2/7/1989; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0150 Fire Safety Watch**

A fire watch:

(1) Shall begin following the propaning of the field and continue for at least 30 minutes after completion. However, the fire watch shall not leave until it is confirmed that the fire and all smoke sources are completely out.

(2) Shall consist of at least one firefighting vehicle with at least a 200 gallon water tank which is manned and equipped as stipulated in OAR 837-110-0020, 837-110-0030, and 837-110-0060.

(3) May allow a field to burn up to the edge of a secondary road as long as there is a fire watch at both ends of the road during the time that the burning is occurring, in order to assure driver safety or divert traffic if necessary.

(4) May allow burning of a field along a secondary road with fire watches, only if there are no combustibles or brush between the edge of the field and the secondary road.

NOTE: For purposes of these rules, secondary roads are rural minor collector roads and local roads as defined by the Federal Highway Administration and the Oregon Department of Transportation and quoted herein:

-1-Rural collector roads - Generally serve travel of primarily inter county rather than statewide importance and constitute those routes on which (regardless of traffic volume) predominant travel distances are shorter than on arterial routes.

-2-Rural minor collector roads - Roads that collect traffic from local roads and bring all developed areas within a reasonable distance of a collector road, provide service to the remaining smaller communities, and link the locally important traffic generators with their rural hinterland.

-3-Rural local roads - Roads that serve primarily to provide access to adjacent land and provide service to travel over relatively short distances as compared to collectors or other highway systems.

*State effective: 2/7/1994; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*

### **837-110-0160 Ban on Burning**

All propaning shall be banned when any two of the following criteria are present

(1)Temperature of 95 degrees Fahrenheit or above.

(2)Relative humidity of 25 percent or below.

(3)Wind speed of 20 miles per hour or higher.

*State effective: 8/11/1993; EPA approval: 11/1/2001, 66 FR 55105; EPA effective: 12/31/2001*