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To: [Comment-Div12](#)
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Subject: EPA Comments on revisions to update Oregon's civil penalty rules.
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Thank you for the opportunity to comment on revisions to update Oregon's civil penalty rules. EPA has reviewed the proposed permanent changes to OAR 340, division numbers 011, 012 and 200. We reviewed the rule changes from the perspective of how the changes might impact implementation of EPA authorized and delegated programs in Oregon.

ODEQ proposes to change the provision at OAR 340-12-0150(1) to state that ODEQ "will" use EPA's BEN model for determining economic benefit. As reflected in EPA penalty policies, we believe that there are situations where the BEN model does not result in capturing economic benefit and that other methods should be considered to determine economic benefit in such cases. OAR 340-012-0160(3) (to be renumbered as (4)) provides that "Regardless of any other penalty amount listed in this division, the director has the discretion to increase the penalty to \$25,000 per violation per day of violation based upon the facts and circumstances of the individual case." As we have advised Oregon in the past, EPA relies on the language in that provision (OAR 340-012-0160(3) (to be renumbered as (4)) in finding that the penalty provisions in Division 12 are consistent with EPA requirements for authorized programs.

Again, thank you for the opportunity to review the revisions to update Oregon's civil penalty rules.

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