**DIVISION 220**

**OREGON TITLE V OPERATING PERMIT FEES**

**340-220-0010**

**Purpose, Scope And Applicability**

(1) The purpose of this division is to provide owners and operators of Oregon Title V Operating Permit program sources and DEQ with the criteria and procedures to determine emissions and fees based on air emissions and specific activities.

(2) This division applies to Oregon Title V Operating Permit program sources as defined in OAR 340-200-0020.

(3) The owner or operator may elect to pay emission fees for each regulated pollutant on either actual emissions or permitted emissions.

(4) Sources subject to the Oregon Title V Operating Permit program defined in OAR 340-200-0020, are subject to both an annual base fee established under 340-220-0030 and an emission fee calculated pursuant to 340-220-0040.

(5) Sources subject to the Oregon Title V Operating Permit program may also be subject to user fees (OAR 340-220-0050 and 340-216-0090).

(6) DEQ will credit owners and operators of new Oregon Title V Operating Permit program sources for the unused portion of paid Annual Fees. The credit will begin from the date DEQ receives the Title V permit application.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2560; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08

**340-220-0020**

**Definitions**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-204-0010, the definition in this rule applies to this division. Particulates. For purposes of this division, particulates mean PM10; or if a source’s permit specifies Particulate Matter (PM) and not PM10, then PM; or if a source’s permit specifies PM2.5 and neither PM10 nor PM, then PM2.5.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08

**340-220-0030**

**Annual Base Fee**

(1) DEQ will assess an annual base fee of $7,289 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2011 to November 14, 2012.

(2) DEQ will assess an annual base fee of $7,466 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2012 to November 14, 2013, and for each annual period thereafter.

**NOTE**: As indicated in the rulemaking proposed in March 2012, the annual base fee for the period of November 15, 2013 to November 14, 2014, and for each annual period thereafter, will be based on the 2012 increase in the consumer price index and will be presented to the Environmental Quality Commission for a future rule revision.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2580; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-09 thru 2-20-10; Administrative correction 3-18-10; DEQ 16-2010, f. & cert. ef. 12-20-10; DEQ 5-2012, f. & cert. ef. 7-2-12

**340-220-0040**

**Emission Fee**

(1) DEQ will assess an emission fee of $ 56.45 per ton of each regulated pollutant emitted during calendar year 2011 to each source subject to the Oregon Title V Operating Permit Program.

(2) The emission fee will be applied to emissions based on the elections made according to OAR 340-220-0090.

**NOTE:** As indicated in the rulemaking proposed in March 2012, the emission fee per ton of each regulated pollutant emitted during calendar year 2012, and for each calendar year thereafter, will be based on the 2012 increase in the consumer price index and will be presented to the Environmental Quality Commission for a future rule revision.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995. f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2590; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-09 thru 2-20-10; Administrative correction 3-18-10; DEQ 16-2010, f. & cert. ef. 12-20-10; DEQ 5-2012, f. & cert. ef. 7-2-12

**340-220-0050**

**Specific Activity Fees**

(1) DEQ will assess specific activity fees for an Oregon Title V Operating Permit program source for the period of January 1, 2012 to December 31, 2012 as follows:

(a) Existing source permit revisions:

(A) Administrative\* —$455;

(B) Simple —$1,820;

(C) Moderate —$13,657;

(D) Complex —$27,314.

(b) Ambient air monitoring review —$3,641.

\*Includes revisions specified in OAR 340-218-0150(1)(a) through (g). Other revisions specified in 340-218-0150 are subject to simple, moderate or complex revision fees.

**NOTE**: As indicated in the rulemaking proposed in March 2012, the specific activity fees as of January 1, 2013 will be based on the 2012 increase in the consumer price index and will be presented to the Environmental Quality Commission for a future rule revision.

(2) DEQ will assess the following specific activity fee for an Oregon Title V Operating Permit program source for annual greenhouse gas reporting, as required by OAR 340-215-0060(1) — Fifteen percent of the following, not to exceed $4,500:

(a) The applicable annual base fee (for the period of November 15 of the current year to November 14 of the following year); and

(b) The applicable annual emission fee (for emissions during the previous calendar year).

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2600; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-09 thru 2-20-10; DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; DEQ 12-2010, f. & cert. ef. 10-27-10; DEQ 16-2010, f. & cert. ef. 12-20-10; DEQ 11-2011, f. & cert. ef. 7-21-11; DEQ 12-2011, f. & cert. ef. 7-21-11; DEQ 5-2012, f. & cert. ef. 7-2-12

**340-220-0060**

**Pollutants Subject to Emission Fees**

(1) DEQ will assess emission fees on emissions of regulated pollutants up to and including 4,000 tons per year for each regulated pollutant for each source through calendar year 2010, and up to and including 7,000 tons per year of all regulated pollutants for each source each calendar year thereafter.

(2) The owner or operator must pay emission fees for all regulated pollutants emitted from the source, except as limited in section (1).

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2610; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08

**340-220-0070**

**Exclusions**

(1) DEQ will not assess emission fees on newly permitted major sources that have not begun initial operation.

(2) DEQ will not assess emission fees on carbon monoxide. However, sources that emit or are permitted to emit 100 tons or more per year of carbon monoxide are subject to the emission fees on all other regulated air pollutants pursuant to OAR 340-220-0010.

(3) DEQ will not assess emission fees on any device or activity that did not operate at any time during the calendar year.

(4) If an owner or operator of an Oregon Title V Operating Permit program source operates a device or activity for less than 5% of the permitted operating schedule, the owner or operator may elect to report emissions based on a proration of the permitted emissions for the actual operating time.

(5) DEQ will not assess emission fees on emissions categorized as credits or unassigned emissions within an Oregon Title V Operating Permit.

(6) DEQ will not assess emission fees on categorically insignificant emissions as defined in OAR 340-200-0020.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2620; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08

**340-220-0080**

**References**

Reference documents used in this division include DEQ’s **Source Sampling Manual** and DEQ’s **Continuous Monitoring Manual**.

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

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 13-1994, f. & ef. 5-19-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2630

**340-220-0090**

**Election for Each Regulated Pollutant**

(1) The owner or operator must elect to pay emission fees on either actual emissions, permitted emissions, or a combination of both for the previous calendar year for each regulated pollutant and notify DEQ using OAR 340-220-0110.

(2) If an owner or operator fails to notify DEQ of the election for a regulated pollutant, DEQ will assess emission fees based on permitted emissions.

(3) If the permit or review report does not identify permitted emissions for a regulated pollutant, DEQ will develop representative permitted emissions.

(4) An owner or operator may elect to pay emission fees on the aggregate limit for insignificant emissions that are not categorically exempt insignificant emissions.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2640; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08

**340-220-0100**

**Emission Reporting**

(1) Using a form(s) developed by DEQ the owner or operator must report the following emissions:

(a) Particulates;

(b) Sulfur Dioxide as SO2;

(c) Oxides of Nitrogen (NOx) as Nitrogen Dioxide (NO2);

(d) Volatile Organic Compounds as:

(A) VOC for material balance emission reporting; or

(B) Propane (C3H8), unless otherwise specified by permit, OAR Chapter 340, or a method approved by DEQ, for emissions verified by source testing.

(2) The owner or operator must report emissions in tons per year and as follows:

(a) Round up to the nearest whole ton for emission values 0.5 and greater; and

(b) Round down to the nearest whole ton for emission values less than 0.5.

(3) The owner or operator electing to pay emission fees on actual emissions for a regulated pollutant must submit documentation necessary to support the actual emissions using OAR 340-220-0120.

(4) The owner or operator electing to pay on actual emissions must report total emissions, including those emissions in excess of 4,000 tons for each regulated pollutant and in excess of 7,000 tons for all regulated pollutants.

(5) The owner or operator electing to pay on permitted emissions for a regulated pollutant must identify such an election on the form(s) developed by DEQ.

(6) If more than one permit is in effect for a calendar year for an Oregon Title V Operating Permit program source, the owner or operator electing to pay on permitted emissions must pay on the most current permitted or actual emissions.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 20-1993(T), f. & ef. 11-4-93; DEQ 13-1994, f. & ef. 5-19-94; DEQ 24-1994, f. & ef. 10-28-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2650; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08

**340-220-0110**

**Emission Reporting and Fee Procedures**

(1) The owner or operator must submit the required form(s), including the election to pay on permitted or actual emissions for each regulated pollutant, to DEQ with the annual permit report using annual reporting procedures.

(2) The owner or operator may request that information, other than emission information, submitted pursuant to this division be exempt from disclosure under OAR 340-214-0130.

(3) Records developed using these rules are subject to inspection and entry requirements in OAR 340-218-0080. The owner or operator must retain records for at least five years under 340-218-0050(3)(b)(B).

(4) DEQ may accept the information submitted or request additional information from the owner or operator. The owner or operator must submit additional actual emission information requested by DEQ within 30 days of the date of the request. DEQ may approve a request for additional time, up to 30 days, to submit the requested information.

(5) If DEQ determines the actual emission information submitted for any regulated pollutant does not meet the criteria in this division, DEQ will assess the emission fee on the permitted emission for that regulated pollutant.

(6) The owner or operator must submit emission fees payable to DEQ by the later of:

(a) August 1 for emission fees from the previous calendar year; or

(b) Thirty days after DEQ mails the fee invoice.

(7) Department acceptance of emission fees does not indicate approval of data collection methods, calculation methods, or information reported on Emission Reporting Forms. If DEQ determines initial emission fee assessments were inaccurate or inconsistent with this division, DEQ may assess or refund emission fees up to two years after emission fees are received by DEQ.

(8) DEQ will not revise a PSEL solely due to an emission fee payment.

(9) Owners or operators operating sources pursuant to OAR 340 division 218 must submit the emission reporting information with the annual permit report.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2660; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08

**340-220-0120**

**Actual Emissions**

(1) 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, except categorically insignificant activities and secondary emissions.

 (2) Actual emissions must be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor determined under division 220 in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the specified time period.

(3) An owner or operator electing to pay on actual emissions must obtain emission data and determine regulated pollutant emissions using one of the following methods:

(a) Continuous monitoring systems used in OAR 340-220-0130;

(b) Verified emission factors developed for a particular source or a combination of sources venting to a common stack using OAR 340-220-0170;

(c) Material balances determined using OAR 340-220-0140, 340-220-0150, or 340-220-0160; or

(d) Verified emission factors for source categories developed uisng OAR 340-220-0170(11).

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2670; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08

**340-220-0130**

**Determining Emissions from Continuous Monitoring Systems**

(1) The owner or operator must use data collected under Oregon Title V Operating Permit conditions, applicable rules in OAR 340, or DEQ**'s Continuous Monitoring Manual**.

(2) If the owner or operator has continuous monitoring data from less than 90% of the plant operating time, the emissions during the period when the continuous monitoring system was not operating must be determined from the 90th percentile of the continuous monitoring data.

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

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 20-1993(T), f. & ef. 11-4-93; DEQ 13-1994, f. & ef. 5-19-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2680; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

**340-220-0170**

**Verified Emission Factors**

(1) The owner or operator must verify emission factors before using them to determine emissions of regulated pollutants. To verify emission factors, the owner or operator must perform either source testing using DEQ's Source Sampling Manual or use other methods approved by DEQ for source tests. Source tests must be conducted using testing procedures on file at DEQ and DEQ approved pretest plan which must be submitted at least 15 days before the testing. All test data and results must be submitted for review to DEQ within 30 days after testing, unless DEQ approves otherwise or a different time period is specified in a permit.

**NOTE:** DEQ recommends that the owner or operator notify DEQ and obtain pre-approval of the emission factor source testing program before or as part of the first source test notification.

(2) The owner or operator must conduct or have conducted at least three compliance source tests. Each test must consist of at least three individual test runs for a total of at least nine test runs.

(3) The owner or operator must monitor and record applicable process and control device operating data.

(4) The owner or operator must perform a source test either:

(a) In each of three quarters of the year with no two successive source tests performed any closer than 30 days apart; or

(b) At equal intervals over the operating period if the owner or operator demonstrates and DEQ agrees that the device or activity operates or has operated for part of the year; or

(c) At any time during the year if the owner or operator demonstrates, and DEQ agrees, that the process is or was not subject to seasonal variations.

(5) The owner or operator must conduct the source tests to test the entire range of operating levels. At least one test must be conducted at minimum operating conditions, at normal or average operating levels, and at anticipated maximum operating levels. If the process rate is constant, all tests must be conducted at that rate. The owner or operator must submit documentation to DEQ demonstrating a constant process rate.

(6) The owner or operator must determine an emission factor for each source test by dividing each test run, in pounds of emission per hour, by the applicable process rate during the source test run. At least nine emission factors must be plotted against the respective process rates and a regression analysis performed to determine the best fit equation and the correlation coefficient. If the correlation coefficient is less than 0.50, which indicates that there is a relatively weak relationship between emissions and process rates, the arithmetic average and standard deviation of at least nine emission factors must be determined.

(7) The owner or operator must determine the Emissions Estimate Adjustment Factor (EEAF) as follows:

(a) If the correlation coefficient (R2) of the regression analysis is greater than 0.50, the EEAF will be 1+(1-R2).

(b) If the correlation coefficient (R2) is less than 0.50, the EEAF will be: [Equation not included. See ED. NOTE.]

(8) The owner or operator must determine actual emissions for emission fee purposes using one of the following methods:

(a) If the regression analysis correlation coefficient is less than 0.50, the actual emissions is the average emission factor determined from at least nine test runs multiplied by the EEAF multiplied by the total production for the entire year; or [Equation not included. See ED. NOTE.]

(b) If the regression analysis correlation coefficient is greater than 0.50, perform the following calculations :

(A) Determine the average emission factor (EF) for each production rate category (maximum = EFmax, normal = EFnorm, and minimum = EFmin);

(B) Determine the total annual production and operating hours, production time (PTtot), for the calendar year;

(C) Determine the total hours operating within the maximum production rate category (PTmax). The maximum production rate category is any operation rate greater than the average of at least three maximum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by 2;

(D) Determine the total hours while operating within the normal production rate category (PTnorm). The normal production rate category is defined as any operating rate less than the average of at least three maximum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by 2 and any operating rate greater than the average of at least three minimum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by 2;

(E) Determine the total hours while operating within the minimum production rate category (PTmin). The minimum production rate category is defined as any operating rate less than the average of at least three minimum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by 2;

(F) Actual emissions equals EEAF x ((PTmax/PTtot) x EFmax + (PTnorm/PTtot) x EFnorm + (PTmin/PTtot) x EFmin.)

(9) The owner or operator must determine emissions during startup and shutdown, and for emissions greater than normal, during conditions that are not accounted for in the procedure(s) otherwise used to document actual emissions. The owner or operator must apply 340-220-0170(9)(a) or 340-220-0170(9)(b), (c) and (d) in developing emission factors. The owner or operator must apply the emission factor obtained to the total time the device or activity operated under these conditions.

(a) All emissions during startup and shutdown, and emissions greater than normal are assumed equivalent to operation without an air pollution control device, unless the owner or operator accurately demonstrates otherwise under OAR 340-220-0170(9)(b), (9)(c), (9)(d), and (9)(e), and approved by DEQ. The emission factor plus the EEAF must be adjusted by the air pollution control device collection efficiency as follows: [Equation not included. See ED. NOTE.]

(b) During process startups a DEQ approved source test may be performed to determine an average startup factor. The average of at least three tests runs plus the standard deviation will be used to determine actual emissions during startups.

(c) During process shutdowns a DEQ approved source test may be performed to determine an emission factor for shutdowns. The average of at least three test runs plus the standard deviation will be used to determine actual emissions during shutdowns.

(d) During routine maintenance activity the owner or operator may:

(A) Perform routine maintenance activity during source testing for verified emission factors; or

(B) Determine emissions using section (a).

(e) The emission factor need not be adjusted if the owner or operator demonstrates to DEQ that the pollutant emissions do not increase during startup and shutdown, and for conditions that are not accounted for in the procedure(s) otherwise used to document actual emissions (e.g. NOx emissions during an ESP failure).

(10) A verified emission factor developed pursuant to this division and approved by DEQ can not be used if a process change occurs that would affect the accuracy of the verified emission factor.

(11) The owner or operator may elect to use verified emission factors for source categories if DEQ determines the following criteria are met:

(a) The verified emission factor for a source category must be based on verified emission factors from at least three individual sources within the source category;

(b) Verified emission factors from sources within a source category must be developed using this rule;

(c) The verified emission factors from the sources must not differ from the mean by more than twenty percent; and

(d) The source category verified emission factor must be the mean of the source verified emission factors plus the average of the source emission estimate adjustment factors.

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

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2720; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08

**340-220-0180**

**Late and Underpayment of Fees**

(1) Notwithstanding any enforcement action, the owner or operator will be subject to a late payment fee of:

(a) Two hundred dollars for payments postmarked more than seven or less than 30 days late; and

(b) Four hundred dollars for payments postmarked on or after 30 days late.

(2) Notwithstanding any enforcement action, DEQ may assess an additional fee of the greater of $400 or 20 percent of the amount underpaid for substantial underpayment.

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2730; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

**340-220-0190**

**Failure to Pay Fees**

Any owner or operator that fails to pay fees imposed by DEQ under this division must pay a penalty of 50 percent of the fee amount, plus interest on the fee amount computed using **Section 6621(a)(2)** of the **Internal Revenue Code of 1986 (as amended)**.

[Publications: The publication(s) referenced in this rule is available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2740; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01