**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**DIVISION 244**

**OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM**

General Provisions for Stationary Sources

**340-244-0010**

**Policy and Purpose**

The Environmental Quality Commission finds that certain air contaminants for which there are no ambient air quality standards may cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness or to irreversible ecological damage, and are therefore considered to be hazardous air pollutants. It shall be the policy of the Commission that no person may cause, allow, or permit emissions into the ambient air of any hazardous substance in such quantity, concentration, or duration determined by the Commission to be injurious to public health or the environment. The purpose of this Division is to establish emissions limitations on sources of these air contaminants. In order to reduce the release of these hazardous air pollutants and protect public health and the environment, it is the intent of the Commission to adopt by rule within this Division the source category specific requirements that are promulgated by the EPA. Furthermore, it is hereby declared the policy of the Commission that the standards contained in this Division are considered minimum standards, and as technology advances, protection of public health and the environment warrants, more stringent standards may be adopted and applied.

Stat. Auth.: ORS 468.020 & ORS 468A.310  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0100

**340-244-0020**

**Delegation of Authority**

Subject to the requirements in this division, LRAPA is designated by the EQC to implement and enforce, within its area of jurisdiction. The requirements and procedures contained in this division must be used by LRAPA unless LRAPA has adopted or adopts rules which are at least as strict as this division.

Stat. Auth.: ORS 468 & 468A   
Stats. Implemented: ORS 468A.025   
Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0110; DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 8-2015, f. & cert. ef. 4-17-15

**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) "CFR" means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, 2013 edition.

(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 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).

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table(s](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/_340_tables/340-244-0040_4-16-15.pdf)).]

Stat. Auth.: ORS 468.020 & 468A.025   
Stats. Implemented: ORS 468A.040   
Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 20-1997, f. & cert. ef. 9-25-97; DEQ 18-1998, f. & cert. ef. 10-5-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0120; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 8-2015, f. & cert. ef. 4-17-15

**340-244-0040**

**List of Hazardous Air Pollutants**

For purposes of this division the EQC adopts by reference the pollutants, including groups of substances and mixtures, listed in section 112(b), as Hazardous Air Pollutants (Table 1).

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table(s](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/_340_tables/340-244-0040_4-16-15.pdf)).]

Stat. Auth.: ORS 468.020 & 468A.025   
Stats. Implemented: ORS 468A.025   
Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 2-1996, f. & cert. ef. 1-2-96; DEQ 20-1997, f. & cert. ef. 9-25-97; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0130; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 7-2015, f. & cert. ef. 4-16-15

340-244-0050

Amending the List of Hazardous Air Pollutants

(1) Any person may file a petition with the Department to amend the HAP List. The petition must include at least the following information:

(a) Name and chemical abstract service number of the substance;

(b) Quantity of the substance used and released in Oregon;

(c) Sources or source categories emitting the substance;

(d) Potential adverse effects of the substance on public health and the environment;

(e) Potential exposure pathways; and

(f) Uncertainties in the data provided.

(2) The Department shall present this information, or other information that the Department may develop, to the Commission which will consider it along with the best available scientific information developed by the EPA, the Oregon Health Division, other states, other scientific organizations, or by any person.

(3) The Commission shall amend the HAP list if:

(a) It finds there is a scientifically defensible need to add a substance not on the EPA list to protect the public health or environment;

(b) A chemical is added to the list by the EPA;

(c) A substance is deleted from the list by the EPA and the Commission finds that the substance can be deleted without causing harm to public health or the environment; or

(d) A substance has previously been added to the list by the Commission but not by the EPA, and the Commission finds that the substance can be deleted without causing harm to public health or the environment.

Stat. Auth.: ORS 468.020 & ORS 468A.310  
Stats. Implemented ORS 468A.025  
Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0140

Compliance Extensions for Early Reductions

**340-244-0100**

**Applicability**

The requirements of 40 CFR Part 63, Subpart D apply to an owner or operator of an existing source who wishes to obtain a compliance extension and an alternative emission limit from a standard issued under Section 112(d) of the FCAA. Any owner or operator of a facility who elects to comply with a compliance extension and alternative emission limit issued under this section must complete a permit application as prescribed in 40 CFR 63.77.

Stat. Auth.: ORS 468.020 & 468A.310  
Stats. Implemented: ORS 468A.310  
Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0300; DEQ 15-2008, f. & cert. ef 12-31-08

**340-244-0200**

**Emissions Limitation for New and Reconstructed Major Sources**

(1) Federal MACT. Any person who proposes to construct a major source of HAP after an applicable emissions standard has been proposed by the EPA pursuant to Section 112(d), Section 112(n), or Section 129 of the FCAA must comply with the requirements and emission standard for new sources when promulgated by EPA.

(2) State MACT. Any person who proposes to construct or reconstruct a major source of hazardous air pollutants before MACT requirements applicable to that source have been proposed by the EPA and after the effective date of the program must comply with new and reconstructed source MACT requirements of 40 CFR Part 63, Subpart B.

(3) Compliance schedule. The owner or operator of a new or reconstructed source must on and after the date of start-up, be in compliance with all applicable requirements specified in the Federal or State MACT.

Stat. Auth.: ORS 468.020 & ORS 468A.025  
Stats. Implemented: ORS 468A.040  
Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 20-1997, f. & cert. ef. 9-25-97; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0500; DEQ 4-2003, f. & cert. ef. 2-06-03

**Emission Standards**

**340-244-0210**

**Emissions Limitation for Existing Sources**

(1) Federal MACT. Existing major and area sources must comply with the applicable emissions standards for existing sources promulgated by the EPA pursuant to section 112(d), section 112(n), or section 129 of the FCAA and adopted by rule within this Division.

(2) State MACT. If the EPA fails to meet its schedule for promulgating a MACT standard for a source category or subcategory, DEQ must approve HAP emissions limitations for existing major sources within that category or subcategory according to 40 CFR Part 63, Subpart B.

(a) The owner or operator of each existing major source within that category will file permit applications in accordance with OAR 340-218-0040 and 40 CFR Part 63, Subpart B.

(b) If, after a permit has been issued, the EPA promulgates a MACT standard applicable to a source that is more stringent than the one established pursuant to this section, DEQ must revise the permit upon the next renewal to reflect the standard promulgated by the EPA. The source will be given a reasonable time to comply, but no longer than 8 years after the standard is promulgated;

(c) DEQ will not establish a case-by-case State MACT:

(A) For existing solid waste incineration units where an emissions standard will be established for these units by the EPA pursuant to section 111 of the FCAA. These sources are subject to applicable emissions standards under OAR chapter 340, division 230; or

(B) For existing major HAP sources where an emissions standard or alternative control strategy will be established by the EPA pursuant to section 112(n) of the FCAA.

(3) Compliance schedule:

(a) The owner or operator of the source must comply with the emission limitation:

(A) Within the time frame established in the applicable Federal MACT standard, but in no case later than three years from the date of federal promulgation of the applicable MACT requirements; or

(B) Within the time frame established by DEQ where a state-determined MACT has been established or a case-by-case determination has been made.

(b) Notwithstanding the requirements of this section, no existing source that has installed Best Available Control Technology or has been required to meet Lowest Achievable Emission Rate before the promulgation of a federal MACT applicable to that emissions unit is required to comply with such MACT standard until 5 years after the date on which such installation or reduction has been achieved, as determined by DEQ.

Stat. Auth.: ORS 468 & 468A   
Stats. Implemented: ORS 468A.310   
Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 7-1998, f. & cert. ef. 5-5-98; DEQ 18-1998, f. & cert. ef. 10-5-98, Renumbered from 340-032-2500; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0505; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 4-2013, f. & cert. ef. 3-27-13

**340-244-0220**

**Federal Regulations Adopted by Reference**

(1) Except as provided in sections (2) and (3) of this rule, 40 CFR Part 61, Subparts A, C through F, J, L, N through P, V, Y, BB, and FF and 40 CFR Part 63, Subparts A, F through J, L through O, Q through U, W through Y, AA through EE, GG through MM, OO through YY, CCC through EEE, GGG through JJJ, LLL through RRR, TTT through VVV, XXX, AAAA, CCCC through KKKK, MMMM through YYYY, AAAAA through NNNNN, PPPPP through UUUUU, WWWWW , YYYYY, ZZZZZ, BBBBBB, DDDDDD through HHHHHH, LLLLLL through TTTTTT, VVVVVV through EEEEEEE, and HHHHHHH are adopted by reference and incorporated herein, and 40 CFR Part 63, Subparts ZZZZ and JJJJJJ are by this reference adopted and incorporated herein only for sources required to have a Title V or ACDP permit.

(2) Where "Administrator" or "EPA" appears in 40 CFR Part 61 or 63, "DEQ" is substituted, except in any section of 40 CFR Part 61 or 63, for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.

(3) 40 CFR Part 63 Subpart M — Dry Cleaning Facilities using Perchloroethylene: The exemptions in 40 CFR 63.320(d) and (e) do not apply.

(4) 40 CFR Part 61 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart C — Beryllium;

(c) Subpart D — Beryllium Rocket Motor Firing;

(d) Subpart E — Mercury;

(e) Subpart F — Vinyl Chloride;

(f) Subpart J — Equipment Leaks (Fugitive Emission Sources) of Benzene;

(g) Subpart L — Benzene Emissions from Coke By-Product Recovery Plants;

(h) Subpart N — Inorganic Arsenic Emissions from Glass Manufacturing Plants;

(i) Subpart O — Inorganic Arsenic Emissions from Primary Copper Smelters;

(j) Subpart P — Inorganic Arsenic Emissions from Arsenic Trioxide and Metal Arsenic Facilities;

(k) Subpart V — Equipment Leaks (Fugitive Emission Sources);

(l) Subpart Y — Benzene Emissions from Benzene Storage Vessels;

(m) Subpart BB — Benzene Emissions from Benzene Transfer Operations; and

(n) Subpart FF — Benzene Waste Operations.

(5) 40 CFR Part 63 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart F — SOCMI;

(c) Subpart G — SOCMI — Process Vents, Storage Vessels, Transfer Operations, and Wastewater;

(d) Subpart H — SOCMI — Equipment Leaks;

(e) Subpart I — Certain Processes Subject to the Negotiated Regulation for Equipment Leaks;

(f) Subpart J — Polyvinyl Chloride and Copolymers Production;

(g) Subpart L — Coke Oven Batteries;

(h) Subpart M — Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;

(i) Subpart N — Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;

(j) Subpart O — Ethylene Oxide Emissions Standards for Sterilization Facilities;

(k) Subpart Q — Industrial Process Cooling Towers;

(l) Subpart R — Gasoline Distribution (Bulk Gasoline Terminals and Pipeline Breakout Stations);

(m) Subpart S — Pulp and Paper Industry;

(n) Subpart T — Halogenated Solvent Cleaning;

(o) Subpart U — Group I Polymers and Resins;

(p) Subpart W — Epoxy Resins and Non-Nylon Polyamides Production;

(q) Subpart X — Secondary Lead Smelting;

(r) Subpart Y — Marine Tank Vessel Loading Operations;

(s) Subpart AA — Phosphoric Acid Manufacturing Plants;

(t) Subpart BB — Phosphate Fertilizer Production Plants;

(u) Subpart CC — Petroleum Refineries;

(v) Subpart DD — Off-Site Waste and Recovery Operations;

(w) Subpart EE — Magnetic Tape Manufacturing Operations;

(x) Subpart GG — Aerospace Manufacturing and Rework Facilities;

(y) Subpart HH — Oil and Natural Gas Production Facilities;

(z) Subpart II — Shipbuilding and Ship Repair (Surface Coating);

(aa) Subpart JJ — Wood Furniture Manufacturing Operations;

(bb) Subpart KK — Printing and Publishing Industry;

(cc) Subpart LL — Primary Aluminum Reduction Plants;

(dd) Subpart MM — Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-Chemical Pulp Mills;

(ee) Subpart OO — Tanks — Level 1;

(ff) Subpart PP — Containers;

(gg) Subpart QQ — Surface Impoundments;

(hh) Subpart RR — Individual Drain Systems;

(ii) Subpart SS — Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process;

(jj) Subpart TT — Equipment Leaks — Control Level 1;

(kk) Subpart UU — Equipment Leaks — Control Level 2;

(ll) Subpart VV — Oil-Water Separators and Organic-Water Separators;

(mm) Subpart WW — Storage Vessels (Tanks) — Control Level 2;

(nn) Subpart XX — Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations;

(oo) Subpart YY — Generic Maximum Achievable Control Technology Standards;

(pp) Subpart CCC — Steel Pickling — HCl Process Facilities and Hydrochloric Acid Regeneration Plants;

(qq) Subpart DDD — Mineral Wool Production;

(rr) Subpart EEE — Hazardous Waste Combustors;

(ss) Subpart GGG — Pharmaceuticals Production;

(tt) Subpart HHH — Natural Gas Transmission and Storage Facilities;

(uu) Subpart III — Flexible Polyurethane Foam Production;

(vv) Subpart JJJ — Group IV Polymers and Resins;

(ww) Subpart LLL — Portland Cement Manufacturing Industry;

(xx) Subpart MMM — Pesticide Active Ingredient Production;

(yy) Subpart NNN — Wool Fiberglass Manufacturing;

(zz) Subpart OOO — Manufacture of Amino/Phenolic Resins;

(aaa) Subpart PPP — Polyether Polyols Production;

(bbb) Subpart QQQ — Primary Copper Smelting;

(ccc) Subpart RRR — Secondary Aluminum Production;

(ddd) Subpart TTT — Primary Lead Smelting;

(eee) Subpart UUU — Petroleum Refineries — Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units;

(fff) Subpart VVV — Publicly Owned Treatment Works;

(ggg) Subpart XXX — Ferroalloys Production: Ferromanganese and Silicomanganese;

(hhh) Subpart AAAA — Municipal Solid Waste Landfills;

(iii) Subpart CCCC — Manufacturing of Nutritional Yeast;

(jjj) Subpart DDDD — Plywood and Composite Wood Products;

(kkk) Subpart EEEE — Organic Liquids Distribution (non-gasoline);

(lll) Subpart FFFF — Miscellaneous Organic Chemical Manufacturing;

(mmm) Subpart GGGG — Solvent Extraction for Vegetable Oil Production;

(nnn) Subpart HHHH — Wet Formed Fiberglass Mat Production;

(ooo) Subpart IIII — Surface Coating of Automobiles and Light-Duty Trucks;

(ppp) Subpart JJJJ — Paper and Other Web Coating;

(qqq) Subpart KKKK — Surface Coating of Metal Cans;

(rrr) Subpart MMMM — Surface Coating of Miscellaneous Metal Parts and Products;

(sss) Subpart NNNN — Surface Coating of Large Appliances;

(ttt) Subpart OOOO — Printing, Coating, and Dyeing of Fabrics and Other Textiles;

(uuu) Subpart PPPP — Surface Coating of Plastic Parts and Products;

(vvv) Subpart QQQQ — Surface Coating of Wood Building Products;

(www) Subpart RRRR — Surface Coating of Metal Furniture;

(xxx) Subpart SSSS — Surface Coating of Metal Coil;

(yyy) Subpart TTTT — Leather Finishing Operations;

(zzz) Subpart UUUU — Cellulose Production Manufacturing;

(aaaa) Subpart VVVV — Boat Manufacturing;

(bbbb) Subpart WWWW — Reinforced Plastics Composites Production;

(cccc) Subpart XXXX — Rubber Tire Manufacturing;

(dddd) Subpart YYYY — Stationary Combustion Turbines;

(eeee) Subpart ZZZZ — Reciprocating Internal Combustion Engines (adopted only for sources required to have a Title V or ACDP permit);

(ffff) Subpart AAAAA — Lime Manufacturing;

(gggg) Subpart BBBBB — Semiconductor Manufacturing;

(hhhh) Subpart CCCCC — Coke Ovens: Pushing, Quenching & Battery Stacks;

(iiii) Subpart DDDDD – Industrial, Commercial, and Institutional Boilers and Process Heaters;

(jjjj) Subpart EEEEE — Iron and Steel Foundries;

(kkkk) Subpart FFFFF — Integrated Iron and Steel Manufacturing Facilities;

(llll) Subpart GGGGG — Site Remediation;

(mmmm) Subpart HHHHH — Misc. Coating Manufacturing;

(nnnn) Subpart IIIII — Mercury Cell Chlor-Alkali Plants;

(oooo) Subpart JJJJJ — Brick and Structural Clay Products Manufacturing;

(pppp) Subpart KKKKK — Clay Ceramics Manufacturing;

(qqqq) Subpart LLLLL — Asphalt Processing & Asphalt Roofing Manufacturing;

(rrrr) Subpart MMMMM — Flexible Polyurethane Foam Fabrication Operations;

(ssss) Subpart NNNNN — Hydrochloric Acid Production;

(tttt) Subpart PPPPP — Engine Tests Cells/Stands;

(uuuu) Subpart QQQQQ — Friction Materials Manufacturing Facilities;

(vvvv) Subpart RRRRR — Taconite Iron Ore Processing;

(wwww) Subpart SSSSS — Refractory Products Manufacturing;

(xxxx) Subpart TTTTT — Primary Magnesium Refining;

(yyyy) Subpart UUUUU — Coal- and Oil-Fired Electric Utility Steam Generating Units;

(zzzz) Subpart WWWWW — Area Sources: Hospital Ethylene Oxide Sterilization;

(aaaaa) Subpart YYYYY — Area Sources: Electric Arc Furnace Steelmaking Facilities;

(bbbbb) Subpart ZZZZZ — Area Sources: Iron and Steel Foundries;

(ccccc) Subpart BBBBBB — Area Sources: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities;

(ddddd) Subpart DDDDDD — Area Sources: Polyvinyl Chloride and Copolymers Production;

(eeeee) Subpart EEEEEE — Area Sources: Primary Copper Smelting;

(fffff) Subpart FFFFFF — Area Sources: Secondary Copper Smelting;

(ggggg) Subpart GGGGGG — Area Sources: Primary Nonferrous Metals — Zinc, Cadmium, and Beryllium;

(hhhhh) Subpart HHHHHH — Area Sources: Paint Stripping and Miscellaneous Surface Coating Operations;

(iiiii) Subpart JJJJJJ — Area Sources: Industrial, Commercial, and Institutional Boilers (adopted only for sources required to have a Title V or ACDP permit);

(jjjjj) Subpart LLLLLL — Area Sources: Acrylic and Modacrylic Fibers Production;

(kkkkk) Subpart MMMMMM — Area Sources: Carbon Black Production;

(lllll) Subpart NNNNNN — Area Sources: Chemical Manufacturing: Chromium Compounds;

(mmmmm) Subpart OOOOOO — Area Sources: Flexible Polyurethane Foam Production;

(nnnnn) Subpart PPPPPP — Area Sources: Lead Acid Battery Manufacturing;

(ooooo) Subpart QQQQQQ — Area Sources: Wood Preserving;

(ppppp) Subpart RRRRRR — Area Sources: Clay Ceramics Manufacturing;

(qqqqq) Subpart SSSSSS — Area Sources: Glass Manufacturing;

(rrrrr) Subpart TTTTTT — Area Sources: Secondary Nonferrous Metals Processing;

(sssss) Subpart VVVVVV – Area Sources: Chemical Manufacturing;

(ttttt) Subpart WWWWWW — Area Source: Plating and Polishing Operations;

(uuuuu) Subpart XXXXXX — Area Source: Nine Metal Fabrication and Finishing Source Categories;

(vvvvv) Subpart YYYYYY — Area Sources: Ferroalloys Production Facilities;

(wwwww) Subpart ZZZZZZ — Area Sources: Aluminum, Copper, and Other Nonferrous Foundries;

(xxxxx) Subpart AAAAAAA – Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing;

(yyyyy) Subpart BBBBBBB — Area Sources: Chemical Preparations Industry;

(zzzzz) Subpart CCCCCCC — Area Sources: Paints and Allied Products Manufacturing;

(aaaaaa) Subpart DDDDDDD — Area Sources: Prepared Feeds Manufacturing;

(bbbbbb) Subpart EEEEEEE — Area Sources: Gold Mine Ore Processing and Production;

(cccccc) Subpart HHHHHHH — Polyvinyl Chloride and Copolymers Production.

Stat. Auth.: ORS 468.020   
Stats. Implemented: ORS 468A.025   
Hist.: [DEQ 16-1995, f. & cert. ef. 6-21-95; DEQ 28-1996, f. & cert. ef. 12-19-96; DEQ 18-1998, f. & cert. ef. 10-5-98]; [DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 32-1994, f. & cert. ef. 12-22-94]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0510, 340-032-5520; DEQ 11-2000, f. & cert. ef. 7-27-00; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 8-2015, f. & cert. ef. 4-17-15

**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.

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

Stat. Auth.: ORS 468.020 & 468A.025   
Stats. Implemented: ORS 468A.025   
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 7-2015, f. & cert. ef. 4-16-15

**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 is480,000 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 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 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 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 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 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 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 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.

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

Stat. Auth.: ORS 468.020 & 468A.025   
Stats. Implemented: ORS 468A.025   
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 7-2015, f. & cert. ef. 4-16-15

**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.

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

Stat. Auth.: ORS 468.020 & 468A.025   
Stats. Implemented: ORS 468A.025   
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 7-2015, f. & cert. ef. 4-16-15

**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 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 340-244-0234(4), the owner or operator must comply with the standards 340-244-0242 no later than 3 years after the affected source becomes subject to the control requirements in 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 340-244-0030, the owner or operator of the GDF must comply with the standards in 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.

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

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table(s](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/_340_tables/340-244-0040_4-16-15.pdf)).]

Stat. Auth.: ORS 468.020 & 468A.025   
Stats. Implemented: ORS 468A.025   
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 7-2015, f. & cert. ef. 4-16-15

**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).

Stat. Auth.: ORS 468.020, 468A.025 & 468A.050   
Stats. Implemented: ORS 468A.025 & 468A.050   
Hist.: DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 7-2015, f. & cert. ef. 4-16-15

**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).

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

Stat. Auth.: ORS 468.020 & 468A.025   
Stats. Implemented: ORS 468A.025   
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 7-2015, f. & cert. ef. 4-16-15

**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 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.

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

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table(s)](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/_340_tables/340-244-0242_3-27.pdf).]

Stat. Auth.: ORS 468.020, 468A.025 & 468A.050   
Stats. Implemented: ORS 468A.025 & 468A.050   
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 7-2015, f. & cert. ef. 4-16-15

**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 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 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).

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

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table(s](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/_340_tables/340-244-0040_4-16-15.pdf)).]

Stat. Auth.: ORS 468.020, 468A.025 & 468A.070   
Stats. Implemented: ORS 468A.025 & 468A.070   
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 7-2015, f. & cert. ef. 4-16-15

**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 340-244-0240(3) only because the owner or operator loads gasoline into fuel tanks other than those in motor vehicles, as defined on 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 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 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 340-244-0242 only because the owner or operator loads gasoline into fuel tanks other than those in motor vehicles, as defined on 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 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.

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

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table(s](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/_340_tables/340-244-0040_4-16-15.pdf)).]

Stat. Auth.: ORS 468.020, 468A.025 & 468A.050   
Stats. Implemented: ORS 468A.025 & 468A.050   
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 7-2015, f. & cert. ef. 4-16-15

**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.

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

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table(s](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/_340_tables/340-244-0040_4-16-15.pdf)).]

Stat. Auth.: ORS 468.020, 468A.025 & 468A.050   
Stats. Implemented: ORS 468A.025 & 468A.050   
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 7-2015, f. & cert. ef. 4-16-15

**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.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.050   
Stats. Implemented: ORS 468A.025 & 468A.050   
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 7-2015, f. & cert. ef. 4-16-15

**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.

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table(s](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/_340_tables/340-244-0040_4-16-15.pdf)).]

Stat. Auth.: ORS 468.020 & 468A.025  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 15-2008, f. & cert. ef 12-31-08

**DIVISION 246**

**OREGON STATE AIR TOXICS PROGRAM**

**340-246-0010**

**Policy and Purpose**

The purpose of Oregon's state air toxics program is to address threats to public health and the environment from toxic air pollutants that remain after implementing the state delegated technology-based strategies of the federal air toxics program. Oregon's program meets the goals of the federal Urban Air Toxics Strategy by using a community-based effort that focuses on geographic areas of concern. It also addresses cases of elevated health risks from unregulated air toxics emissions at stationary sources and source categories of air toxics emissions.

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0030**

**Definitions**

The definitions in OAR 340-200-0020, 340-218-0030, 340-244-0030 and this rule apply to this division. If the same term is defined in this division and elsewhere, the definition in this division applies.

(1) "Air toxics" means those pollutants known or suspected to cause cancer or other serious health effects, including but not limited to "hazardous air pollutants" or "HAPs" listed by the EPA pursuant to section 112(b) of the Federal Clean Air Act.

(2) "Ambient benchmark" means the concentration of an air toxic in outdoor air that would result in an excess lifetime cancer risk level of one in a million (1 x 10-6) or a non-cancer hazard quotient of one.

(3) "Bio-accumulation" means the net accumulation of a substance by an organism as a result of uptake from all routes of exposure (e.g., ingestion of food, intake of drinking water, direct contact, or inhalation).

(4) "Geographic area" means an area identified by DEQ where air toxics concentrations are estimated or measured at levels that exceed ambient benchmark concentrations.

(5) "Hazard quotient" means the ratio of the potential exposure to a single air toxic to the reference concentration for that pollutant. If the hazard quotient is calculated to be less than or equal to 1, then no adverse health effects are expected as a result of exposure. If the hazard quotient is greater than 1, then adverse health effects are possible.

(6) "High priority geographic area" means an area identified by DEQ where air toxics concentrations are estimated or measured at levels that exceed ambient benchmark concentrations and pose excess cancer risk above ten in a million, or non-cancer risk above a hazard quotient of one with the potential for serious adverse health effects.

(7) "Public receptor" means any outdoor area where members of the public have unrestricted access, including but not limited to residences, institutions (e.g. schools, hospitals), industrial, commercial, or office buildings, parks, recreational areas, public lands, streets or sidewalks.

(8) "Reference concentration" means an estimate of a continuous exposure or a daily exposure to the human population (including sensitive populations) that is likely to be without an appreciable risk of adverse non-cancer effects during a lifetime. The reference concentration can be derived from various types of human or animal data, with uncertainty factors generally applied to reflect limitations of the data used.

(9) "Sensitive human populations" means humans with increased susceptibility to the adverse effects of air toxics, including humans in prenatal or postnatal periods of development.

(10) "Source" means:

(a) An activity conducted by a person at a point, area, on-road mobile, or off-road mobile operation that emits air toxics; or

(b) 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 pollutant 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.

(11) "Source Category" means:

(a) A source or group of sources that emit air toxics due to the use of the same or similar processes, including commercial, residential, public or private processes, which as a group can reduce air toxics emissions by employing similar control or prevention strategies or;

(b) All the 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).

(12) "Toxics Best Available Retrofit Technology", or "TBART" means an air toxics emissions limitation based on the maximum degree of reduction of air toxics, determined on a case-by-case basis, that is feasible taking into consideration:

(a) What has been achieved in practice for that source category, or for similar processes or emissions;

(b) Energy and non-air quality health or environmental impacts; and

(c) Economic impacts, including the costs of changing existing processes or equipment or adding equipment or controls to existing processes and equipment. Such limitation may be based on a design, equipment, work practice or other operational standard, or combination thereof.

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

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0050**

**Pollution Prevention**

The Environmental Quality Commission encourages the use of pollution prevention for all sources of air toxics statewide. EQC encourages use of the following hierarchy to reduce air toxics:

(1) Modify the process, raw materials, or product to reduce the quantity and toxicity of air contaminants generated;

(2) Capture and reuse air contaminants;

(3) Treat to reduce the quantity and toxicity of air contaminants released; or

(4) Otherwise control air toxics emissions.

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0070**

**Air Toxics Science Advisory Committee**

(1) Purpose. EQC recognizes the many scientific uncertainties associated with the effects of air toxics, and the continuing development of new information in this field. An Air Toxics Science Advisory Committee (ATSAC), will advise DEQ, and in its jurisdiction, the Lane Regional Air Pollution Authority, on technical issues and evaluation of the state air toxics program. The ATSAC will provide advice on the technical aspects of risk assessment. It will not provide risk management or policy recommendations. The ATSAC will perform the following functions:

(a) Review ambient benchmarks for the state air toxics program;

(b) Advise DEQ on developing a risk assessment methodology to be used in the Safety Net Program in OAR 340-246-0190 (5) and (6);

(c) Advise DEQ on selecting sources for the Safety Net program. The ATSAC will evaluate potential Safety Net sources identified by DEQ to determine whether they qualify for the Safety Net Program, as specified in OAR 340-246-0190 through 0230;

(d) Evaluate overall progress in reducing emissions of and exposure to air toxics by considering trends in emissions and ambient concentrations of air toxics. The ATSAC will periodically advise DEQ on air toxics program effectiveness and make technical recommendations for program development concerning the possible adverse environmental effects of air toxics and risk from exposure to multiple air toxics; and

(e) Provide advisory opinions on questions requiring scientific expertise, as requested by DEQ.

(2) Membership. The ATSAC will be composed of highly qualified members with experience relevant to air toxics. There will be at least five but no more than seven members. The following disciplines will be represented on the ATSAC:

(a) Toxicology;

(b) Environmental Science or Environmental Engineering;

(c) Risk Assessment;

(d) Epidemiology/Biostatistics;

(e) Medicine (Physician) with training or experience in Public Health; and

(f) Air Pollution Modeling, Monitoring, Meteorology or Engineering.

(3) Appointment. DEQ's Operations Division Administrator will nominate potential members to the Director. Before making these nominations, the Administrator will develop a list of candidates by consulting with government, public, and private organizations involved in work relevant to air toxics. The Director will appoint ATSAC members with concurrence by EQC.

(4) Term. Air Toxics Science Advisory Committee members will serve a three-year term. Initial terms will be staggered for continuity and transfer of work so that members of the first ATSAC may serve more or less than three years.

(5) Operation.

(a) No member may have an actual or potential conflict of interest, as those terms are defined by ORS 244.020.

(b) The ATSAC will meet as necessary.

(6) Procedures, Bylaws, and Decision-making Process. At a minimum, the ATSAC will observe the procedures specified below. The ATSAC will develop other necessary procedures and bylaws in consultation with DEQ.

(a) Final decisions must be made by a quorum of members, based on consensus when possible. If consensus is not possible, decisions will be made by majority vote with a quorum present.

(b) If necessary, DEQ may obtain a facilitator to assist the ATSAC.

(c) The bylaws will include provisions for removing a member for cause, with concurrence by EQC.

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0090**

**Ambient Benchmarks for Air Toxics**

(1) Purpose. Ambient benchmarks are concentrations of air toxics that serve as goals in the Oregon Air Toxics Program. They are based on human health risk and hazard levels considering sensitive populations. Ambient benchmarks are not regulatory standards, but reference values by which air toxics problems can be identified, addressed and evaluated. DEQ will use ambient benchmarks as indicated in these rules, to implement the Geographic, Source Category, and Safety Net Programs. Ambient benchmarks set by the procedures described in this rule apply throughout Oregon, including that area within the jurisdiction of the Lane Regional Air Protection Agency. Ambient benchmarks are subject to public notice and comment before adoption by EQC as administrative rules.

(2) Establishing Ambient Benchmarks

(a) DEQ will consult with the ATSAC to prioritize air toxics for ambient benchmark development. Highest priority air toxics are those that pose the greatest risk to public health.

(b) To prioritize air toxics, DEQ will apply the criteria described in OAR 340-246-0090(2)(c) to modeling, monitoring, and emissions inventory data.

(c) Ambient benchmark prioritization criteria will include at least the following:

(A) Toxicity or potency of a pollutant;

(B) Exposure and number of people at risk;

(C) Impact on sensitive human populations;

(D) The number and degree of predicted ambient benchmark exceedances; and

(E) Potential to cause harm through persistence and bio-accumulation.

(d) DEQ will develop ambient benchmarks for proposal to the ATSAC based upon a protocol that uses reasonable estimates of plausible upper-bound exposures that neither grossly underestimate nor grossly overestimate risks.

(e) Within three months of the first meeting of the ATSAC, DEQ will propose ambient benchmark concentrations for the highest priority air toxics for review by the ATSAC. DEQ will propose additional and revised air toxics ambient benchmarks for review by the ATSAC based on the prioritization criteria in OAR 340-246-0090(2)(c). Once the ATSAC has completed review of each set of proposed ambient benchmarks, DEQ will, within 60 days, begin the process to propose ambient benchmarks as administrative rules for adoption by the Environmental Quality Commission.

(f) If DEQ is unable to propose ambient benchmarks to the ATSAC by the deadlines specified in OAR 340-246-0090(2)(e), the ATSAC will review the most current EPA ambient benchmarks. If EPA ambient benchmarks are not available, the ATSAC will review the best available information from other states and local air authorities.

(g) The ATSAC will consider proposed ambient benchmarks and evaluate their adequacy for meeting risk and hazard levels, considering human health, including sensitive human populations, scientific uncertainties, persistence, bio-accumulation, and, to the extent possible, multiple exposure pathways. The ATSAC will conduct this review consistent with the criteria in OAR 340-246-0090(2)(c) and (d). The ATSAC will report these findings to DEQ. If the ATSAC unanimously disagrees with DEQ's recommendation, DEQ will re-consider and re-submit its recommendation at a later date.

(h) The ATSAC will complete review of and report findings on each set of ambient benchmarks as expeditiously as possible, but no later than 12 months after DEQ has proposed them. If the ATSAC is unable to complete review of ambient benchmarks within 12 months after DEQ's proposal, DEQ will initiate rulemaking to propose ambient benchmarks.

(i) DEQ will review all ambient benchmarks at least every five years and, if necessary, propose revised or additional ambient benchmarks to the ATSAC. At its discretion, DEQ may review and propose a benchmark for review by the ATSAC at any time when new information is available.

(3) Ambient Benchmarks. Benchmark concentrations are in units of micrograms of air toxic per cubic meter of ambient air, on an average annual basis. The Chemical Abstract Service Registry Number (CASRN) is shown in parentheses.

(a) The ambient benchmark for acetaldehyde (75-07-0) is 0.45 micrograms per cubic meter.

(b) The ambient benchmark for acrolein (107-02-8) is 0.02 micrograms per cubic meter.

(c) The ambient benchmark for acrylonitrile (107-13-1) is 0.01 micrograms per cubic meter.

(d) The ambient benchmark for ammonia (7664-41-7) is 200 micrograms per cubic meter.

(e) The ambient benchmark for arsenic (7440-38-2) is 0.0002 micrograms per cubic meter.

(f) The ambient benchmark for benzene (71-43-2) is 0.13 micrograms per cubic meter.

(g) The ambient benchmark for beryllium (7440-41-7) is 0.0004 micrograms per cubic meter.

(h) The ambient benchmark for 1,3-butadiene (106-99-0) is 0.03 micrograms per cubic meter.

(i) The ambient benchmark for cadmium and cadmium compounds (7440-43-9) is 0.0006 micrograms per cubic meter.

(j) The ambient benchmark for carbon disulfide (75-15-0) is 800 micrograms per cubic meter.

(k) The ambient benchmark for carbon tetrachloride (56-23-5) is 0.07 micrograms per cubic meter.

(l) The ambient benchmark for chlorine (7782-50-5) is 0.2 micrograms per cubic meter.

(m) The ambient benchmark for chloroform (67-66-3) is 98 micrograms per cubic meter.

(n) The ambient benchmark for chromium, hexavalent (18540-29-9) is 0.00008 micrograms per cubic meter.

(o) The ambient benchmark for cobalt and cobalt compounds (7440-48-4) is 0.1 micrograms per cubic meter.

(p) The ambient benchmark for 1,4-dichlorobenzene (106-46-7) is 0.09 micrograms per cubic meter.

(q) The ambient benchmark for 1,3-dichloropropene (542-75-6) is 0.25 micrograms per cubic meter.

(r) The ambient benchmark for diesel particulate matter (none) is 0.1 micrograms per cubic meter. The benchmark for diesel particulate matter applies only to such material from diesel-fueled internal combustion sources.

(s) The ambient benchmark for dioxins and furans (1746-01-6) is 0.00000003 micrograms per cubic meter. The benchmark for dioxin is for total chlorinated dioxins and furans expressed as 2,3,7,8-TCDD toxicity equivalents.

(t) The ambient benchmark for ethyl benzene (100-41-4) is 0.4 micrograms per cubic meter.

(u) The ambient benchmark for ethylene dibromide (106-93-4) is 0.002 micrograms per cubic meter.

(v) The ambient benchmark for ethylene dichloride (107-06-2) is 0.04 micrograms per cubic meter.

(w) The ambient benchmark for ethylene oxide (75-21-8) is 0.01 micrograms per cubic meter.

(x) The ambient benchmark for formaldehyde (50-00-0) is 3 micrograms per cubic meter.

(y) The ambient benchmark for n-hexane (110-54-3) is 7000 micrograms per cubic meter.

(z) The ambient benchmark for hydrogen chloride (7647-01-0) is 20 micrograms per cubic meter.

(aa) The ambient benchmark for hydrogen cyanide (74-90-8) is 9 micrograms per cubic meter.

(bb) The ambient benchmark for hydrogen fluoride (7664-39-3) is 14 micrograms per cubic meter.

(cc) The ambient benchmark for lead and lead compounds (7439-92-1) is 0.15 micrograms per cubic meter.

(dd) The ambient benchmark for manganese and manganese compounds (7439-96-5) is 0.09 micrograms per cubic meter.

(ee) The ambient benchmark for elemental mercury (7439-97-6) is 0.3 micrograms per cubic meter.

(ff) The ambient benchmark for methyl bromide (74-83-9) is 5 micrograms per cubic meter.

(gg) The ambient benchmark for methyl chloride (74-87-3) is 90 micrograms per cubic meter.

(hh) The ambient benchmark for methyl chloroform (71-55-6) is 1000 micrograms per cubic meter.

(ii) The ambient benchmark for methylene chloride (75-09-2) is 2.1 micrograms per cubic meter.

(jj) The ambient benchmark for naphthalene (91-20-3) is 0.03 micrograms per cubic meter.

(kk) The ambient benchmark for nickel refinery dust (7440-02-0) is 0.004 micrograms per cubic meter.

(ll) The ambient benchmark for nickel subsulfide (12035-72-2) is 0.002 micrograms per cubic meter.

(mm) The ambient benchmark for soluble nickel compounds (various) is 0.05 micrograms per cubic meter, where soluble nickel compounds may include any or all of the following: nickel acetate (373-02-4), nickel chloride (7718-54-9), nickel carbonate (3333-39-3), nickel carbonyl (13463-39-3), nickel hydroxide (12054-48-7), nickelocene (1271-28-9), and nickel sulfate (7786-81-4).

(nn) The ambient benchmark for phosphine (7803-51-2) is 0.3 micrograms per cubic meter.

(oo) The ambient benchmark for phosphoric acid (7664-38-2) is 10 micrograms per cubic meter.

(pp) The ambient benchmark for total (as the sum of congeners) polychlorinated biphenyls (1336-36-3) is 0.01 micrograms per cubic meter.

(qq) The ambient benchmark for total polycyclic aromatic hydrocarbons (none) is 0.0009 micrograms per cubic meter, where total polycyclic aromatic hydrocarbons are the sum of the toxicity equivalency factor (with respect to benzo(a)pyrene (50-32-8)) adjusted concentrations for all of the following individual polycyclic aromatic hydrocarbons: benzo(a)anthracene (56-55-3), benzo(a)pyrene (50-32-8), benzo(b)fluoranthene (205-99-2), benzo(k)fluoranthene (207-08-9), carbazole (86-74-8), chrysene (218-01-9), dibenz(a,h)acridine (226-36-8), dibenz(a,h)anthracene (226-36-8), dibenz(a,j)acridine (224-42-0), 7H-dibenzo(c,g)carbazole (194-59-2), dibenzo(a,e)pyrene (192-65-4), dibenzo(a,i)pyrene (189-55-9), dibenzo(a,l)pyrene (191-30-0), 7,12-dimethylbenz(a)anthracene (57-97-6), 1,6-dinitropyrene (42397-64-8), 1,8-dinitropyrene (42397-65-9), indeno(1,2,3-c,d)pyrene (193-39-5), 3-methylcholanthrene (56-49-5), 5-methylchrysene (3697-24-3), 1-nitropyrene (5522-43-0), 2-nitrofluorene (607-57-8), 4-nitropyrene (59865-13-3), 5-nitroacenaphthene (607-87-9) 6-nitrochrysene (7496-02-8), acenaphthene (83-32-9), acenaphthylene (208-96-8), anthracene (120-12-7), benzo(g,h,i)perylene (191-24-2), fluoranthene (206-44-0), fluorene (86-73-7), phenanthrene (85-01-8), and pyrene (129-00-0).

(rr) The ambient benchmark for tetrachloroethylene (127-18-4) is 35 micrograms per cubic meter.

(ss) The ambient benchmark for toluene (108-88-3) is 400 micrograms per cubic meter.

(tt) The ambient benchmark for 2,4- & 2,6 toluene diisocyanate, mixture (26471-62-5) is 0.07 micrograms per cubic meter.

(uu) The ambient benchmark for trichloroethylene (79-01-6) is 0.5 micrograms per cubic meter.

(vv) The ambient benchmark for vinyl chloride (75-01-4) is 0.1 micrograms per cubic meter.

(ww) The ambient benchmark for white phosphorus (7723-14-0) is 0.07 micrograms per cubic meter.

(xx) The ambient benchmark for xylenes (1330-20-7) is 700 micrograms per cubic meter.

(yy) The ambient benchmark for hydrogen sulfide (7783-06-4) is 2.0 micrograms per cubic meter.

(zz) The ambient benchmark for methanol (67-56-1) is 4000 micrograms per cubic meter.

Stat. Auth.: ORS 468.035, 468A.010(1) & 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03; DEQ 12-2006, f. & cert. ef. 8-15-06; DEQ 9-2010, f. & cert. ef. 8-31-10; DEQ 11-2010, f. & dert. ef. 10-19-10

**340-246-0110**

**Source Category Rules and Strategies**

(1) DEQ may identify the need for source category rules and strategies through the following methods:

(a) The emissions inventory, modeling or monitoring, shows air toxics emissions from point, area, or mobile sources associated with public health risk at public receptors;

(b) Development of a local air toxics reduction plan provides source category controls that could be effectively applied to sources existing in other parts of the state; or

(c) When implementing the Safety Net Program, DEQ establishes air toxics emissions reductions for a source and determines that there are other similar sources in the state to which the reductions should apply.

(2) Subject to the requirements in this rule, the Lane Regional Air Pollution Authority is designated by EQC as the agency responsible for implementing Source Category Rules and Strategies within its area of jurisdiction. The requirements and procedures contained in this rule must be used by the Regional Authority to implement Source Category Rules and Strategies unless the Regional Authority adopts superseding rules that are at least as restrictive as the rules adopted by EQC.

(3) DEQ will consider the following criteria in determining whether to propose source category strategies under this division:

(a) Whether air toxics emissions from the source category are not, or will not, be addressed by other regulations or strategies, including emissions reduction requirements under the Geographic Program (OAR 340-246-0130 through 340-246-0170), or the Safety Net Program (OAR 340-246-0190 through 340-246-0230);

(b) Whether air toxic emissions from the source category can be effectively reduced through regulations or voluntary strategies; and

(c) Whether the source category contributes to ambient benchmark exceedances at public receptors statewide, in multiple geographic areas, or in multiple counties

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0130**

**Geographic Program (0130 through 0170)**

(1) Purpose. The Geographic Program addresses emissions from multiple sources of air toxics. It requires prioritizing and selecting geographic areas of concern, forming a local advisory committee, developing a specific local plan to control air toxics, a public participation and comment process, EQC adoption or approval, implementing reduction strategies, and periodically evaluating the effectiveness by DEQ.

(2) Subject to the requirements in OAR 340-246-0130 through 0170, the Lane Regional Air Pollution Authority is designated by EQC as the agency to implement the Geographic Program within its area of jurisdiction. The requirements and procedures contained in this rule shall be used by the Regional Authority to implement the Geographic Program unless the Regional Authority adopts superseding rules which are at least as restrictive as state rules. The Regional Authority will address geographic areas as resources allow, considering the prioritization criteria in 340-246-0150.

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0150**

**Prioritizing and Selecting Geographic Areas**

(1) DEQ will prioritize geographic areas by considering the total cancer and non-cancer risk from air toxics to the population in the area, as indicated by:

(a) The number and degree of ambient benchmark exceedances;

(b) The toxicity or potency of air toxics exceeding ambient benchmarks;

(c) The level of exposure and number of people at risk in areas of concern;

(d) The presence of sensitive populations;

(e) The effectiveness of local control strategies; and

(f) To the extent known, the risk posed by multiple pollutants and pollutant mixtures.

(2) Not later than 18 months after the first set of benchmarks is adopted, DEQ will select the first geographic area for air toxics reduction planning. DEQ will base selection on representative monitoring compared to the ambient benchmark concentrations at public receptors. To the extent possible, geographic areas will be identified using monitoring data generated following EPA monitoring guidelines. Subsequent geographic areas will be selected after completion of monitoring. A geographic area is formally selected upon publication of a notice in the Oregon Secretary of State's Bulletin. Once an area is selected for air toxics reduction planning, it will retain the status of a selected geographic area until DEQ determines through an evaluation of data that a reduction plan is no longer necessary for the area to meet all air toxics ambient benchmarks.

(3) DEQ will first select for emissions reduction planning the high priority geographic areas, where concentrations of air toxics are more than ten times above the ambient benchmarks or above a hazard quotient of one with the potential for serious adverse health effects. DEQ will select all other geographic areas, where air toxics concentrations are above benchmarks, after air toxics emissions reduction plans have been approved for the high priority geographic areas.

(4) Geographic Area Boundaries. DEQ will establish general geographic area boundaries on a neighborhood or urban area scale. DEQ will consider feasibility of administration when setting the boundaries of a geographic area. In setting geographic area boundaries, DEQ will consider criteria including but not limited to the following:

(a) Areas of impact (where people are exposed);

(b) Population density;

(c) Areas of influence (where sources are located);

(d) Meteorology;

(e) Geography and topography;

(f) Including all air toxics exceeding ambient benchmarks; and

(g) Coordination with criteria pollutant boundaries for attainment of the National Ambient Air Quality Standards (NAAQS).

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0170**

**Local Air Toxics Emissions Reduction Planning**

(1) DEQ will develop air toxics reduction plans for selected geographic areas with the advice of local advisory committees. The main role of a local advisory committee is to consider air toxics reduction options and to recommend a specific air toxics reduction plan for their geographic area. The Director will appoint a local air toxics advisory committee.

(a) Local advisory committees will generally be composed of a balanced representation of members from affected local government, local health departments, the public, small businesses (50 or fewer employees), larger businesses (if present in the area), and interest groups represented in the area.

(2) Local Advisory Committee Tasks.

(a) Within 18 months of their first meeting, the committee will evaluate options for reducing emissions of air toxics that exceed ambient benchmarks, and recommend a local air toxics reduction plan to DEQ.

(b) DEQ may grant an extension of time to the local committee if requested by the committee, if DEQ believes the extension is technically justified and the committee is making reasonable progress in developing a local air toxics reduction plan.

(c) If the committee is unable to recommend a local air toxics reduction plan to DEQ within 18 months, or the date of an extension, DEQ will formulate a plan for the area within six months.

(d) DEQ and the local advisory committee will seek local government support for the proposed local air toxics emissions reduction plan.

(e) The local advisory committee will evaluate the plan's effectiveness as it is implemented and recommend changes to DEQ.

(f) At DEQ's request, the local advisory committee will reconvene to implement contingency planning and recommend contingency measures as specified by OAR 340-246-0170(4)(l).

(g) If the committee is unable to recommend contingency measures within 18 months, DEQ will formulate contingency measures for the area within 6 months.

(3) Public Notice, Comment, Approval and Adoption by the Environmental Quality Commission. DEQ will provide an opportunity for public notice and comment on proposed local emissions reduction plans. After the public notice and comment process is complete, DEQ will present local air toxics reduction plans to EQC for approval, including adoption of appropriate administrative rules. The Environmental Quality Commission may delegate the approval of plans that do not contain administrative rules to the Director of DEQ.

(4) Elements of an Air Toxics Reduction Plan:

(a) Local air toxics reduction plans must focus on the air toxic or air toxics measured or modeled above the ambient benchmarks.

(b) Local air toxics reduction plans must be based on sound data analysis. This includes developing enhanced emissions inventory information for the local area using source-specific information to the extent possible. This may also include enhanced modeling and monitoring to better characterize ambient concentrations. Plans also must rely on sound analysis of the effectiveness and cost of air toxics emissions reduction options. Where needed to fill specific information gaps, DEQ may require air toxics emissions reporting for specific sources or source categories within the geographic area on a case-by-case basis.

(c) The emissions reduction goals for individual air toxics are ambient benchmarks in local air toxics reduction plans.

(d) Local air toxics reduction plans must be designed to reduce air toxics emissions in a timely manner.

(A) When feasible, local air toxics reduction plans will be designed to reach levels that are equal to or below ambient benchmark concentrations. Plans will be designed to achieve emissions reductions within ten years, beginning at the date EQC approves the plan. Local plans must provide for the timeliest reductions possible for each air toxic exceeding ambient benchmarks.

(B) Local air toxics reduction plans must include specific three-year milestones that DEQ and the local advisory committee will evaluate every three years, in coordination with DEQ's air toxics emissions inventory update.

(e) Every three years, DEQ will assess the effectiveness of local plans and make recommendations for plan revision based on progress meeting milestones or new information. If DEQ finds lack of progress at year three, it will work with the local advisory committee to provide corrective measures. If DEQ finds lack of progress at year six and projects that ten-year goals in OAR 340-246-0170(4)(d)(A) will not be met, it will implement the contingency plan in 340-246-0170(4)(l). If at year nine DEQ projects that ten year goals in 340-246-0170(4)(d)(A) will not be met, it will work with the local advisory committee to propose and seek adoption of measures necessary to reach these goals.

(f) Local air toxics reduction plans must evaluate air toxics emissions from all types of sources, including point, area, and mobile sources. Plans must require emissions reductions from the most significant sources of air toxics. Mandatory emissions reduction strategies will be commensurate with source contributions, considering relative emissions, toxicity, technical feasibility, cost-effectiveness and equity.

(g) Local air toxics reduction plans must include strategies to reduce high concentrations of air toxics that are limited to smaller portions of a geographic area as well as pollutants causing public health risk throughout the area.

(h) Local air toxics reduction plans may include a variety of mandatory and voluntary approaches to reducing emissions of air toxics. Depending on the type of source, local air toxics reduction plans may include public education, pollution prevention alternatives, economic incentives and disincentives, technical assistance and regulatory requirements.

(i) DEQ will ensure the opportunity for public involvement during the plan development process. This includes involving those affected by the air toxics emissions and those affected by the proposals to reduce air toxics emissions. Proposed local air toxics reduction plans must be available for public hearing and comment.

(j) Local air toxics reduction plans must be coordinated with other local, state, and federal requirements to the extent possible. This includes considerations of any ozone or particulate control requirements for the area, any federal standard applicable to sources in the area, any strategies that are federally pre-empted, and any impacts on water or land, such as water pollution or hazardous waste.

(k) Local air toxics reduction plans will include specific recommendations for developing ongoing emissions inventory or ambient air monitoring to track local trends in air toxics.

(l) Local air toxics reduction plans must include a contingency plan that will be implemented if evaluation at year six shows that an area is not meeting milestones and will not achieve the ten year goals established under OAR 340-246-0170(4)(d)(A). The contingency plan, like the original plan, must require emissions reductions from the most significant sources of air toxics. Mandatory emissions reduction strategies will be commensurate with source contributions, considering relative emissions, toxicity, technical feasibility cost-effectiveness and equity. Contingency plans must include but are not limited to:

(i) Re-evaluation of planning assumptions, such as emissions factors, motor vehicle data and background pollutants;

(ii) Evaluation of existing conditions and effectiveness of emissions reduction strategies, including reasons for success or failure; and

(iii) New or progressively more mandatory strategies that will be considered.

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0190**

**Air Toxics Safety Net Program (0190 through 0230)**

(1) The purpose of the Air Toxics Safety Net Program is to address human exposures at public receptors to air toxics emissions from stationary sources that are not addressed by other regulatory programs or the Geographic Program. It is EQC's expectation that the Safety Net Program in OAR 340-246-0190 through 340-246-0230 will apply only rarely.

(2) Subject to the requirements contained in OAR 340-246-0190 through 340-246-0230, the Lane Regional Air Pollution Authority is designated by EQC as the agency responsible for implementing the Air Toxics Safety Net Program within its area of jurisdiction. The requirements and procedures contained in this rule must be used by the Regional Authority to implement the Air Toxics Safety Net Program unless the Regional Authority adopts superseding rules, which are at least as restrictive as the rules adopted by EQC.

(3) Selection of Sources. DEQ will select a source for the Air Toxics Safety Net Program if all of the following criteria are met:

(a) DEQ has ambient monitoring information, gathered using appropriate EPA or other published international, national, or state standard methods that concentrations of air toxics have caused an exceedance of at least one ambient benchmark at a site representing expected human exposure to air toxics from the source at a public receptor in a location outside of the source's ownership or control.

(b) DEQ has information that the source's air toxics emissions alone have caused an exceedance of at least one ambient benchmark at a site representing expected human exposure to air toxics from the source at a public receptor, in a location outside of the source's ownership or control. This could be based on emissions inventory, modeling or other information.

(c) The source is not subject to or scheduled for a federal residual risk assessment under the federal Clean Air Act section 112(f)(2) through (6).

(d) The source is not subject to an emissions limit or control requirement imposed as the result of modeling or a risk assessment performed or required by DEQ prior to November 1, 2003 for the air toxics that exceed the ambient benchmarks.

(e) The source is located outside of a selected geographic area, as designated in OAR 340-246-0130 through 0170.

(4) Air Toxics Science Advisory Committee Review. Before requiring a source to conduct a source-specific risk assessment, DEQ will present its analysis to the ATSAC. Within 120 days, the ATSAC will review the analysis and make a finding. If the ATSAC concurs with DEQ or takes no action, DEQ may proceed pursuant to this rule. If the ATSAC objects, DEQ will not proceed until it receives concurrence from EQC.

(5) Source-Specific Exposure Modeling and Risk Assessment. Upon written notification by DEQ, a source must conduct a risk assessment including exposure modeling for the air toxics measured at levels above ambient benchmarks. The source must use a risk assessment methodology provided by DEQ. This risk assessment will provide the basis for establishing air toxics emissions reductions or demonstrating that at public receptors in areas outside of a source's ownership or control, people are not being exposed to air toxics at levels that exceed the ambient benchmarks.

(6) Risk Assessment Methodology DEQ will provide guidance on the methods to be used. The risk assessment methodology will be developed in consultation with the ATSAC and will result in a protocol that:

(a) Uses reasonable estimates of plausible upper-bound exposures that neither grossly underestimate nor grossly overestimate risks;

(b) Considers the range of probabilities of risks actually occurring, the range of size of the populations likely to be exposed to the risk, and current and reasonably likely future land uses;

(c) Defines the use of high-end and central-tendency exposure cases and assumptions;

(d) Develops values associated with chronic exposure for carcinogens; and

(e) Addresses both carcinogenic and non-carcinogenic air toxics and allows for detailed exposure assessments to the extent possible.

(7) Review and Acceptance by DEQ DEQ will evaluate the risk assessment for adequacy and completeness before accepting the results. If the results demonstrate that the source is not causing human exposures to air toxics at levels that exceed the ambient benchmarks at public receptors, in areas outside the source's ownership or control, and DEQ has received concurrence from the ATSAC, DEQ will notify the source that air toxics emissions reductions will not be required pursuant to this rule.

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0210**

**Safety Net Source Air Toxics Emissions Reductions**

(1) Air Toxics Emissions Reduction Analysis:

(a) If source-specific exposure modeling and risk assessment show that the source is causing exceedances of ambient benchmarks at public receptors in areas outside the source's ownership or control, the source must perform an analysis showing how air toxics could be reduced to meet ambient benchmarks. DEQ and the safety net source will develop proposed air toxics emissions reduction measures based on modeling and, when available, monitoring information.

(b) As part of the air toxics emissions reduction analysis, the source will analyze pollution prevention options, and is encouraged to use the hierarchy stated in OAR 340-246-0050.

(2) Air Toxics Emissions Reduction Requirements:

(a) A safety net source emitting air toxics causing exposure resulting in excess lifetime cancer risk greater than one in a million (1x10-6) or a hazard quotient of one for non-carcinogens must, as soon as practicable but no later than three years after the effective date of the permit imposing such conditions, meet toxics best available retrofit technology (TBART) for each air toxic that exceeds an ambient benchmark.

(b) A safety net source may use a means of air toxics reduction, other than TBART, if it can demonstrate to DEQ that it will achieve a risk level at or below one in a million, or a hazard quotient at or below one, within three years of using the other means of air toxics emissions reductions.

(c) A safety net source emitting a carcinogenic air toxic causing excess lifetime cancer risk at or above one hundred in a million (1x10-4) must reduce its air toxic emissions to achieve a risk level below one hundred in a million as soon practicable but no later than one year after the effective date of the permit imposing such conditions.

(d) A safety net source emitting a non-carcinogenic air toxic at a level above a hazard quotient of one that DEQ finds to have a potential for causing very serious or irreversible adverse health effects must reduce its air toxic emissions below this level as soon practicable, but no later than one year after the effective date of the permit imposing such conditions.

(3) If a safety net source cannot reach a risk level at or below excess lifetime cancer risk of one in a million, or a hazard quotient at or below one in three years, even though it meets TBART, the TBART determination for the source will be subject to periodic review under this section until the source achieves a risk level at or below one in a million or a hazard quotient at or below one. Upon each renewal of the source's permit, TBART for the source must be reviewed, taking into consideration retrofit costs and the remaining useful life of controls installed or other measures taken to meet a prior TBART determination. Upon renewal of the source's permit, DEQ must include conditions requiring the source to meet TBART as determined for that permit renewal.

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015  
Stats. Implemented:  
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0230**

**Safety Net Source Air Toxics Emissions Reduction Measures in Permit**

(1) Public Participation. DEQ will hold public informational meetings to discuss proposed air toxics emissions reduction measures. After the informational meetings, DEQ will provide at least 40-days notice before holding a public hearing to collect official comments on the proposed air toxics emissions reduction measures.

(2) Permit or Permit Modification. After considering public comments, DEQ will propose air toxics emissions reduction measures to be placed in the source's permit, according to the reopening process for Oregon Title V permits in OAR 340-218-0200 or Oregon Title V Permit issuance in 340-218-0120 or Department Initiated Permit Modifications in 340-216-0084 or Air Contaminant Discharge Permit issuance in 340-216-0066.

Stat. Auth.: ORS 468.020, 468A. 025, 468A.040& 468A.310   
Stats. Implemented: ORS 468A.025, 468A.040 & 468A.310   
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 7-2015, f. & cert. ef. 4-16-15

**OAR 340-246-0XXX**

(1) Applicability**:** Affected sources are colored glass manufacturing facilities located within the Portland Air Quality Maintenance Area that operate one or more affected emissions units. Affected emissions units are glass manufacturing furnaces in which raw materials that contain compounds of arsenic, cadmium or chromium are used, excluding furnaces that are heated only with electricity.

1. For the purpose of this agreement, the following terms will have the given meanings:
   1. “Chromium III” means chromium in the +3 oxidation state, also known as trivalent chromium;
   2. “Chromium VI” means chromium in the +6 oxidation state, also known as hexavalent chromium;
   3. “Chromium”, without a following roman numeral, means chromium in any oxidation state;
   4. “Controlled” means the glass-making furnace emissions are treated by an emission control device approved by DEQ;
   5. “Cullet” means recycled glass that is mixed with raw materials and charged to glass melting furnace to produce glass. Cullet is not considered to be a raw material for the purposes of this agreement;
   6. “Raw material” means minerals, such as silica sand, limestone, and dolomite; inorganic chemical compounds, such as soda ash (sodium carbonate), salt cake (sodium sulfate), and potash (potassium carbonate); metal oxides and other metal-based compounds, such as lead oxide, chromium oxide, and sodium antimonate; metal ores, such as chromite and pyrolusite; and other substances that are intentionally added to a glass manufacturing batch and melted in glass melting furnace to produce glass. Metals that are naturally-occurring trace constituents or contaminants of other substances are not considered to be raw materials. Cullet and material that is recovered from a furnace control device for recycling into the glass formulation are not considered to be raw materials for the purposes of this agreement;
   7. “Uncontrolled” means the glass-making furnace emissions are not treated by an emission control device approved by DEQ; and
   8. “Week” means Sunday through Saturday.
2. No later than September 1, 2016:
   1. Bullseye must install one or more emission control devices to control all glass-making furnaces that use raw material containing any of the following metals: arsenic, cadmium, chromium or nickel; and
   2. Each emission control device must meet either of the following requirements: 99.0% removal efficiency for particulate matter as measured by DEQ Method 5 or 0.2 pounds of particulate matter per ton of glass produced as measured by EPA Method 5.
3. Bullseye must not use arsenic, cadmium or chromium VI in raw materials in any glass-making furnace that is not controlled by an emission control device approved by DEQ.
4. Bullseye must comply with either paragraph 9 (Option 1) or paragraph 10 (Option 2), and may comply with both but is not required to comply with both.
5. Option 1: Bullseye must not use chromium III in uncontrolled glass-making furnaces until DEQ establishes a maximum allowable chromium III usage rate for uncontrolled glass-making furnaces that will not result in ambient concentrations that exceed 1.6 ng/m3 of chromium VI. Thereafter, Bullseye must comply with the maximum allowable chromium III usage rate for uncontrolled glass-making furnaces established by DEQ. For the purpose of establishing a maximum allowable chromium III usage rate, the following are required:
   1. Performing a source test in an uncontrolled furnace or at the inlet of an emission control device as specified below:
      1. Test using DEQ approved protocols and methods for total chromium and chromium VI and submit a source test plan detailing the approach to DEQ for approval;
      2. Test while making a glass that contains chromium III, and under operational conditions that are agreed to by DEQ as representing conditions most likely to result in the conversion of chromium III to chromium VI;
      3. Keep records of the amount of chromium III used in the batches that are produced during the source test runs, as well as other operational parameters identified in the source test plan; and
      4. Prior to the source test, clean the furnace stack in a manner that has been approved by DEQ and complies with applicable OSHA standards, or replace the furnace stack to be tested.
   2. Performing dispersion modeling to determine the ambient concentrations of Bullseye’s air emissions at nearby and adjacent receptors as follows:
      1. Submit a modeling protocol for approval by DEQ;
      2. Use the maximum chromium VI emission rate;
      3. Determine the impact at receptors approved by DEQ; and
      4. Establish a maximum chromium III usage so as not to exceed an ambient concentration of 1.6 ng/m3 of chromium VI.
   3. Bullseye must keep daily records of all batches produced and provide to DEQ, each week, the daily amount of DEQ monitored metals used.
6. Option 2: Bullseye must not use chromium III in controlled or uncontrolled glass-making furnaces until DEQ establishes maximum allowable chromium III usage rates for uncontrolled or controlled glass-making furnaces that will not result in ambient concentrations that exceed 1.6 ng/m3 of chromium VI. Thereafter, Bullseye must comply with the maximum allowable chromium III usage rates for uncontrolled or controlled glass-making furnaces established by DEQ. For the purpose of establishing maximum allowable chromium III usage rates, the following are required:
   1. Performing a source test as specified below:
      1. Test using DEQ approved protocols and methods for total chromium, chromium VI, and particulate matter (DEQ Method 5) and submit a source test plan detailing the approach to DEQ for approval;
      2. Test for chromium and chromium VI at the outlet of the emission control device, and test for particulate matter at both the inlet and the outlet of the emission control device;
      3. Test while making a glass that contains chromium III, and under operational conditions that are agreed to by DEQ as representing conditions most likely to result in the conversion of chromium III to chromium VI;
      4. Keep records of the amount of chromium III used in the batches that are produced during the source test runs, as well as other operational parameters identified in the source test plan; and
   2. If the maximum emission rate of chromium VI based on the required testing exceeds 1.6 ng/m3, then perform dispersion modeling to determine the ambient concentrations of Bullseye’s air emissions at nearby and adjacent receptors as follows:
      1. Submit a modeling protocol for approval by DEQ;
      2. Use the maximum chromium VI emission rate;
      3. Determine the impact at receptors approved by DEQ; and
      4. Establish a maximum chromium III usage so as not to exceed an ambient concentration of 1.6 ng/m3 of chromium VI.
   3. Bullseye must keep daily records of all batches produced and provide to DEQ, each week, the daily amount of DEQ monitored metals used.
7. Bullseye may apply source testing protocols equivalent to those in paragraph 10 to the use of chromium VI in a glass-making furnace to establish maximum usage rates for chromium VI in controlled glass-making furnaces that will not result in ambient concentrations that exceed 1.6 ng/m3 of chromium VI.
8. Bullseye must limit the use of nickel in Table 1 in raw materials as follows:
   1. This limitation applies to all glass-making furnaces that are not controlled by an emission control device approved by DEQ;
   2. In any week, Bullseye must use no more than the listed Maximum Weekly Usage for nickel in raw materials;
      1. This limitation applies to the total usage of nickel in raw materials in all glass-making furnaces that are not controlled by an emission control device approved by DEQ; and
      2. This limitation applies to the weight of nickel itself in raw materials, not the weight of the compounds that contain nickel.
   3. Bullseye must reduce or cease use of nickel in raw materials as provided in paragraph 10.

Table 1

|  | **Action Levels \*** | |  | **80%** | **60%** | **40%** |
| --- | --- | --- | --- | --- | --- | --- |
| **Metal** | **Reduce Use**  **Level**  **(ng/m3)** | **Stop Use**  **Level**  **(ng/m3)** | **Maximum Weekly Usage, pounds per week** | **Reduction Step 1, pounds per week** | **Reduction Step 2, pounds per week** | **Reduction Step 3, pounds per week** |
| Chromium III as related to levels of Chromium VI in air 1 | 0.8 a | 1.6 a | 75% of the annual average weekly usage in 2015 | 60% of the annual average weekly usage in 2015 | 45% of the annual average weekly usage in 2015 | 30% of the annual average weekly usage in 2015 |
| Lead 5 | 150 | 150 |
| Nickel 2 | 40 | 80 |  |  |  |  |
| Cobalt 3 | 50 | 100 |  |  |  |  |
| Manganese 4 | 45 | 90 |  |  |  |  |

1 The ABC of 4 ng/m3 for nickel refinery dust is based on a cancer risk of one potential occurrence of cancer in a population of 1 million people (1 x 10-6). The Stop Use Level for nickel is 20 times the ABC, which is related to a cancer risk of 20 potential occurrences of cancer in a population of 1 million people (2 x 10-5). The Reduce Use Level is 10 times the ABC, which is related to 10 potential occurrences of cancer in a population of 1 million people (1 x 10-5).

\*The ranges listed in Table 1 have been reviewed by and are acceptable to the Oregon Health Authority as protective.

1. Prior to installation of all emission control devices required in Paragraph 6, in the event that rolling bi-weekly averages of ambient monitoring data exceed an Action Level listed in Table 1, Bullseye must reduce or stop usage of nickel as specified below:
2. For the purpose of this paragraph, the following apply:
   * 1. The term “Monitored Level” means the rolling bi-weekly average of the ambient monitoring data of nickel listed in Table 1 from monitors located within 0.4 mile radius of the Facility;
     2. The rolling bi-weekly average will be based on the most recent two weeks of monitoring; and
     3. The minimum data set required to calculate a rolling bi-weekly average must have at least five daily values for each week.
   1. If the Monitored Level of any of nickel exceeds the Reduce Use Level in Table 1, Bullseye must reduce the use of nickel in raw materials in uncontrolled glass-making furnaces to Reduction Step 1 upon being notified to do so by DEQ. The requirement to reduce usage applies to the week following the week in which notification was given.
   2. If a second consecutive Monitored Level of nickel exceeds the Reduce Use Level in Table 1, Bullseye must reduce the use of nickel in raw materials in uncontrolled glass-making furnaces to Reduction Step 2 upon being notified to do so by DEQ. The requirement to reduce usage applies to the week following the week in which notification was given.
   3. If a third consecutive Monitored Level of nickel exceeds the Reduce Use Level in Table 1, Bullseye must reduce the use of nickel in raw materials in uncontrolled glass-making furnaces to Reduction Step 3 upon being notified to do so by DEQ. The requirement to reduce usage applies to the week following the week in which notification was given and all following weeks until DEQ provides notification that the Monitored Level is again below the Reduce Use Level in Table 1.
   4. If the Monitored Level of nickel exceeds the Stop Use Level in Table 1, Bullseye must stop using nickel in raw materials in uncontrolled glass-making furnaces upon being notified to do so by DEQ. The requirement to stop usage applies to the week following the week in which notification was given and all following weeks until DEQ provides notification that the Monitored Level is again below the Reduce Use Level in Table 1. In the event that DEQ requires Bullseye to stop using nickel in raw materials three times pursuant to this subparagraph, Bullseye must stop using nickel in raw materials in uncontrolled glass-making furnaces.
   5. Following any requirement to reduce or stop usage of nickel in raw materials, Bullseye may resume usage of nickel in raw materials at the Maximum Weekly Usage level after DEQ provides notification that the Monitored Level of nickel is again below the Reduce Use Level. Bullseye may resume usage in the week following the week in which notification is given and all following weeks until Bullseye is required to reduce or stop usage again.
   6. DEQ notifications will be provided no later than 12 PM on Friday and will affect the following week. Notification will be by email or facsimile and DEQ will attempt to confirm receipt by phone.
3. Bullseye must keep daily records of all batches produced and provide to DEQ upon request, the daily amount of metals used.
4. On and after September 1, 2016 and provided DEQ does not notify Bullseye at least three times to stop using the metal in raw materials as described under Paragraph 12, Bullseye may continue to use nickel in uncontrolled glass-making furnaces as follows: 
   1. If DEQ did not notify Bullseye to reduce or stop using nickel, Bullseye must use no more than the listed Maximum Weekly Usage for nickel in raw materials without prior authorization from DEQ.
   2. If DEQ notified Bullseye to stop or reduce using nickel, Bullseye will reduce the weekly usage of nickel in raw materials in uncontrolled glass-making furnaces to the appropriate Reduction Step in Table 1 as are in effect as of September 1, 2016 (if any) and Bullseye cannot increase the weekly usage of nickel without prior authorization from DEQ.
5. Emission control device requirements:
   1. The design of all emission control devices must be approved by DEQ before installation.
   2. Bullseye must submit a Notice of Intent to Construct in accordance with OAR 340-210-0205 through 340-210-0250 no later than 15 days prior to the date installation begins. If DEQ does not deny or approve the Notice of Intent to Construct within 10 days of receipt of the Notice, the Notice will be deemed to be approved.
   3. Emission control devices may control emissions from more than one furnace.
   4. Each emission control device must be equipped with the monitoring device or devices specified by DEQ in DEQ’s approval of the Notice of Intent to Construct required in subparagraph b.
   5. Each emission control device must be equipped with inlet ducting that provides the following:
      1. Sufficient cooling of exhaust gases to no more than the maximum design inlet temperature under worst-case conditions; and
      2. Provision for inlet emissions testing, including sufficient duct diameter, sample ports, undisturbed flow conditions, and access for testing.
   6. Each emission control device must be equipped with outlet ducting that provides for outlet emissions testing, including sufficient duct diameter, sample ports, undisturbed flow conditions, and access for testing.
   7. After commencing operation of any emission control device, Bullseye must observe and record the parameters specified by DEQ in DEQ’s approval of the Notice of Intent to Construct, required in subparagraph b.
   8. Bullseye must perform the following source testing on at least one controlled glass-making furnace approved by DEQ to demonstrate compliance with either requirement in Paragraph 6. Source testing done under paragraph 10 may be used in whole or in part to comply with this paragraph.
      1. Within 60 days of commencing operation of the emission control devices, test control device inlet and outlet for particulate matter using DEQ Method 5 or comparable method;
      2. A source test plan must be submitted at least 30 days before conducting the source test; and
      3. The source test plan must be approved by DEQ before conducting the source test.
6. This agreement imposes no restrictions on the raw materials that may be used in glass-making furnaces that are controlled by an emission control device approved by DEQ, except that the use of chromium III and chromium VI will be subject to maximum usage rates determined by DEQ.