**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**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:
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**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:
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**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.