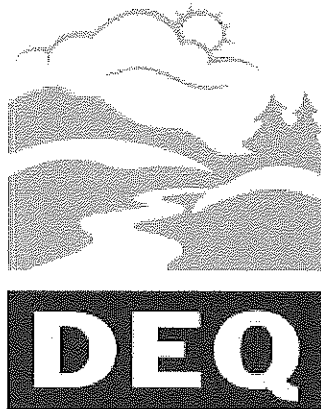


**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS 09/30/1999**



**State of Oregon
Department of
Environmental
Quality**

This file is digitized in *color* using Optical Character Recognition (OCR) in a standard PDF format.

Standard PDF Creates PDF files to be printed to desktop printers or digital copiers, published on a CD, or sent to client as publishing proof. This set of options uses compression and downsampling to keep the file size down. However, it also embeds subsets of all (allowed) fonts used in the file, converts all colors to sRGB, and prints to a medium resolution. Window font subsets are not embedded by default. PDF files created with this settings file can be opened in Acrobat and Reader versions 6.0 and later.

A G E N D A

ENVIRONMENTAL QUALITY COMMISSION MEETING

September 30 and October 1 , 1999

Red Lion Inn

1313 N Bayshore Drive

Coos Bay, Oregon

Notes: Because of the uncertain length of time needed for each agenda item, the Commission may deal with any item at any time in the meeting. If a specific time is indicated for an agenda item, an effort will be made to consider that item as close to that time as possible. However, scheduled times may be modified if agreeable with participants. Anyone wishing to listen to the discussion on any item should arrive at the beginning of the meeting to avoid missing the item of interest.

Public Forum: The Commission will break the meeting at approximately **11:30 a.m.** for the Public Forum if there are people signed up to speak. The Public Forum is an opportunity for citizens to speak to the Commission on environmental issues and concerns not a part of the agenda for this meeting. The public comment period has already closed for the Rule Adoption items and, in accordance with ORS 183.335(13), no comments can be presented to the Commission on those agenda items. Individual presentations will be limited to 5 minutes. The Commission may discontinue this forum after a reasonable time if an exceptionally large number of speakers wish to appear.

The Commission will tour several sites in the Coos Bay Area before the meeting

Thursday, September 30

6:30 – 8:30 p.m.

Reception with Local Officials

Friday, October 1
Beginning at 8:30 a.m.

A. Approval of Minutes

B. Approval of Tax Credits

C. Informational Item: Carbureted 2-stroke Marine Engines

D. Informational Item: Final Legislative Report

E. †Rule Adoption: Reorganization and Non-substantive Changes to OAR Divisions 20 through 34

F. †Rule Adoption: Grants Pass Carbon Monoxide Maintenance Plan

~~**G. †Rule Adoption:** Expansion of the Rogue Basin Open Burning Control Area~~
This item has been postponed

H. Informational Item: Air Toxics Program Development

I. Commissioners' Reports

J. Director's Report

†Hearings have already been held on the Rule Adoption items and the public comment period has closed. In accordance with ORS 183.335(13), no comments can be presented by any party to either the Commission or the Department on these items at any time during this meeting.

The Commission will have lunch at 12:00 noon. . No Commission business will be discussed.

The Commission has set aside November 18-19, 1999, for their next meeting in Portland, Oregon.

Copies of staff reports for individual agenda items are available by contacting the Director's Office of the Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204, telephone 229-5301, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting.

If special physical, language or other accommodations are needed for this meeting, please advise the Director's Office, (503)229-5301 (voice)/(503)229-6993 (TTY) as soon as possible but at least 48 hours in advance of the meeting.

January 26, 2000

TOUR AGENDA

Environmental Quality Commission Tour September 30 and October 1, 1999

Note to editors: Reporters may join the group at any of its stops. For coordination, please contact Jennifer Boudin 541-686-7838, ext. 235.

EQC Tour Sites, Coos Bay, Oregon:

Thursday, September 30, 1999

Lakeside: *Meet at approximately 1:30 p.m. at the Gazebo at the Tenmile County boat ramp.* Nutrient problems in the lake have been a serious concern for the community, as a toxic algae bloom in 1997 resulted in a health advisory being posted for the lake. A number of nutrient sources exist. One source of nutrients to the lake may be failing on-site septic systems. DEQ is conducting education and outreach to the community and working with them to identify long term solutions for their nutrient issues. The EQC will hear a report on this project, and hear from local groups working with DEQ staff.

Midcoast Marine Shipyard, Coos Bay: *Meet at approximately 3:15 p.m. at the former Midcoast Marine Shipyard, 520 Whitty in Coos Bay.* This former shipyard site is in the process of being cleaned up from serious contamination. It is one of several shipyard sites in Coos Bay that contributed to sediment contamination problems. DEQ found that shipyards were the main source of tri-butyl tin and heavy metal contamination in the bay sediments. The contamination posed threats to the oyster population as well as other bay wildlife. The sites were high priority for EPA action, but EPA deferred to DEQ to take the lead on these cleanups. Substantial environmental gains have been made in the year since EPA deferred the sites. The EQC will hear a complete report about the shipyards project.

Friday, October 1, 1999

New Carissa Beached Stern: *The tour will begin at the conclusion of the EQC meeting, leaving from the Red Lion.* Work continues on the wreck removal of the stern of the *New Carissa*. The incidence of tar balls washing ashore has continued to fluctuate over the summer. Work is currently centered on efforts to refloat the engine room of the stern and dispose of it at sea. It appears that removal of all the wreck is not feasible this season. The EQC will receive an update on operations and environmental concerns.

Oregon Plan Approach

South Coast DEQ activities are conducted in the spirit of the Oregon Plan for Watersheds. The Department seeks to integrate local organizations, landowners, and diverse cross media and multi-agency activities to maximize environmental benefits.

Without this integration many of these efforts could occur in a disconnected manner and benefits will not be maximized. Integration efforts provide a clearer understanding of what activities can improve water quality. This integration provides a framework for landowners to implement management options that improve water quality. The following bullets highlight elements of the Oregon Plan "grassroots approach".

- DEQ is implementing an approach that brings *process* not product to local organizations and jurisdictions. **Local involvement is the base working level.**
- Landscape based assessments are being conducted in partnership with local organizations. These assessments are then utilized for enhancement and restoration planning as well as for TMDL development.
- DEQ is then working together with partners to provide financial incentives and implement projects to improve water quality. Local watershed council's provide a primary interface with private landowners.
- DEQ is coordinating programs within the agency and with other agencies to implement a watershed approach. For example TMDL development is being coordinated with;
 - The Oregon Department of Agriculture
 - The Department of Forestry
 - Oregon Department of Fish and Wildlife
 - Soil and Water Conservation Districts
 - Federal land managers
 - Federal agencies (ACOE, NMFS, NRCS)
 - DLCD
 - Local jurisdictions
 - Watershed Councils and other local groups
 - OTHERS !

What has the return on our investment been ?

- **An integrated approach maximizing available resources.**
- **An improved community understanding of problems and solutions.**
- **An on the ground working relationship with landowners.**
- **Improvements in water quality and water dependent resources.**

Tenmile Lakes'

The value and health of Tenmile Lakes' is dependent on good water quality. A toxic algal bloom which occurred in 1997 heightened community concern regarding water quality. Many in the Tenmile Lakes' community are working to find the causes for declining water quality and are committed to reversing this trend. The community feels that it is essential to control invasive weeds, understand and limit algae blooms, control nutrient loading, and have lake dependent businesses remain economically viable.

Nutrient Sources:

Nutrients get into the lakes from various sources such as:

- Sediments entering the lake from upland and/or lakeshore erosion
- Lawn and garden products
- Human and animal waste
- Gray water (sink and bath water)
- Organic materials like dead or dying weeds

Minimizing nutrient input from all of these sources into the lakes will require the action and support of all in the watershed.

Fishery Issues:

Coastal lakes provide critical rearing habitat for Coho and other salmonids. Historically Tenmile Lakes' were a key component in area stock viability but, improving salmonid habitat is a complex process in the lake. Addressing and managing introduced fish, exotic weeds, and poor water quality all play important roles in salmon recovery efforts. Improving water quality will provide positive progress towards achieving improvements in the salmon population.

303d Water Quality Limited – TMDL:

All lakes have some level of natural nutrient loading from things like natural landslides and wildlife. As the amount of nutrients increase from man caused activities, such as those listed above, this loading can begin to exceed the lake's ability to "digest" the nutrients. When this happens water quality declines and we begin to see things like the toxic algae bloom that occurred in 1997.

Tenmile Lake was listed on the 1994 303d list identifying waterbodies failing to meet water quality standards for weed and algae growth. Tenmile Basin Partnership is implementing a monitoring effort to develop a nutrient budget that will identify contributions from all of the sources listed above. This project will provide information allowing improved restoration planning and implementation and will be key to the establishment of a TMDL/WQMP for the lake. It will provide for the development of attainable and clear water quality goals and will provide a baseline from which progress can be measured. The nutrient budget funding incorporates OWEB and DEQ 319 dollars.

Tenmile Lake On-Site Special Project

On-Site Waste Treatment Systems have the potential to degrade water quality if not properly designed and maintained!

Work Progress Summer 1999

- A file review was completed by local volunteers and the Department documenting the status of onsite systems on Tenmile Lake.
- Volunteers found 393 pre-1974 (pre-DEQ) dwellings and cabins and 88 post-1974 unpermitted systems. Through further review, this list was pared down to 65 unpermitted systems.
- The summation below reflects the current status of the project.

Description	Total per group
Systems currently being improved	56
Possible enforcement action	5
Extensions granted	4
Total	65

- Through the joint efforts of DEQ, Coos County, and the homeowners, over **85%** of the systems in this project are moving towards full compliance.

Next Steps for Summer 2000

- Summer 1999 work has been a great success in getting sites prepared for the placement of on-site systems and educating owners of the 65 unpermitted dwellings and cabins on the lake.
- Much more education and outreach is needed in terms of the 300 older, (pre-74) homes, float homes, and cabins. This continued education and outreach is an extremely important component and will focus on;
 - System maintenance
 - Gray water management
 - Determining the functionality of older system designs
 - System sizing for current use
 - Solids management (challenging when you live on a lake !!)
- The Department is working to provide landowner incentive programs to help support these activities.

Due to the Success of these Efforts

- Tenmile Lakes Basin Partnership and other local organizations are anxious to work with DEQ on education, outreach, and incentive programs throughout the winter of 99-00.
- Summer of 2000 will be a busy construction season on the lake.
- DEQ will need to actively oversee these construction activities and workload will be increased.
- Lake water quality improvements will be realized.



South Coast Shipyard Projects

Coos Bay is home to the only deep draft shipping port on the west coast between Seattle and San Francisco. In addition to serving ocean-going vessels, the area supports a large fishing and shellfish industry along with port and harbor industries typically associated with coastal communities. It is also home to an abundant variety of marine life including mammals, fish, seabirds, and shellfish. The Coos River, which discharges to the bay, has anadromous runs of salmon, steelhead, and striped bass. Portions of the Coos Bay watershed are currently being addressed under Oregon's Healthy Stream Program, and part of the South Slough within the bay has been designated a National Estuary Research Reserve.

After thickened, ball-shaped pacific oysters were observed in the bay in the late 1980s, DEQ's Water Quality Program coordinated a series of sampling events in Coos Bay. The results indicated that tributyltin (TBT), known to cause deformation in oysters, is present at low concentrations throughout the bay. Higher concentrations of TBT are located at dockside berthing areas and in tidal mud flats, and significant levels exist in the vicinity of several ship repair and maintenance facilities. TBT is a biocide additive to marine paints used to prevent barnacle growth on ship hulls. DEQ's response to these findings has involved staff from the water quality, hazardous waste, solid waste and cleanup programs.

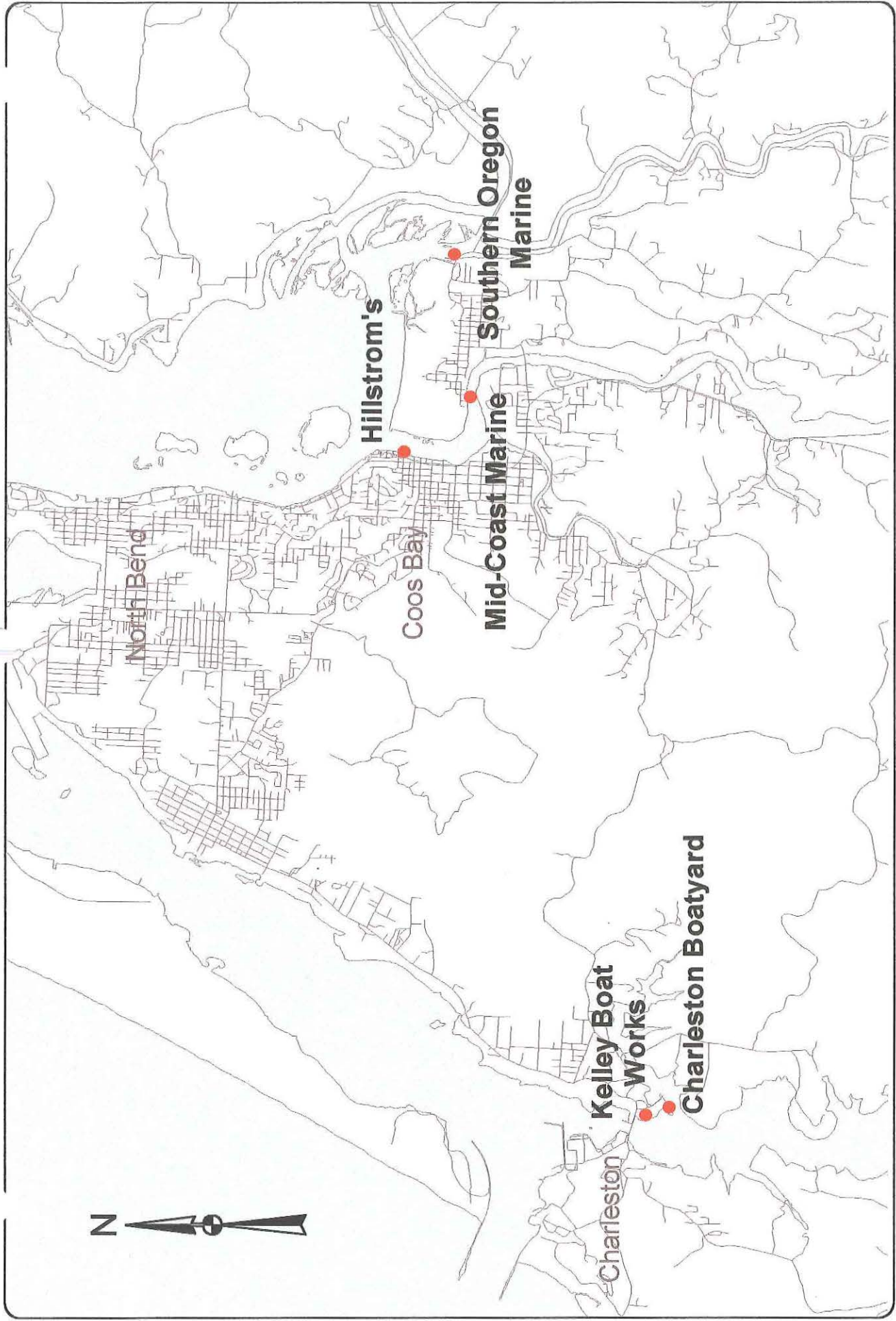
In all, five current and former shipyards in Coos Bay were identified as potential point sources of TBT. Other contaminants, including arsenic, chromium and nickel from sandblast grit, copper, lead and zinc from marine paints, solvents and petroleum compounds are also present. These shipyards are Hillstroms' Shipyard, Kelley Boat Works, the Charleston Boat Yard, Southern Oregon Marine (SOMAR) and Mid-Coast Marine (MCM).

In 1996 and 1997, DEQ and EPA completed preliminary assessments (PA) and site inspections (SI) at four of the shipyards while the fifth shipyard, the former Hillstrom's Shipyard, addressed its contamination within DEQ's Voluntary Cleanup Program (VCP). The former Kelley Boat Works joined the VCP in 1998.

Following completion of the SI process, EPA considered designating the remaining three sites, the Charleston Boat Yard, SOMAR and MCM, as federal Superfund NPL sites to compel the shipyards' owners to address the identified contamination. One of the remaining sites, MCM, subsequently ceased operation and declared bankruptcy. This site was designated a State Orphan Cleanup Site in July 1998, thus allowing DEQ to use state money to initiate cleanup activities.

In August 1998, DEQ secured enforceable cleanup orders for the Charleston Boat Yard and SOMAR cleanups. The orders require the shipyards to complete the characterization and cleanup of site-related contaminants at their respective facilities, and implement shipyard best management practices (BMPs) to prevent recontamination. DEQ successfully obtained formal deferrals of a Superfund listing from EPA pending completion of the State's cleanup process at all three sites in December 1998.

Since that time, over 1300 yards of contaminated material have been removed from Coos Bay, and the active shipyards are implementing pollution prevention BMPs. Since completing the initial assessment of Coos Bay shipyards, DEQ has continued to move northward along the Oregon coast looking at boat building and maintenance facilities. Site visits have included offers of technical assistance in addressing past practices and implementation of BMPs. Ten south coast shipyards sites are currently working with DEQ.



COOS BAY SHIPYARD SITES



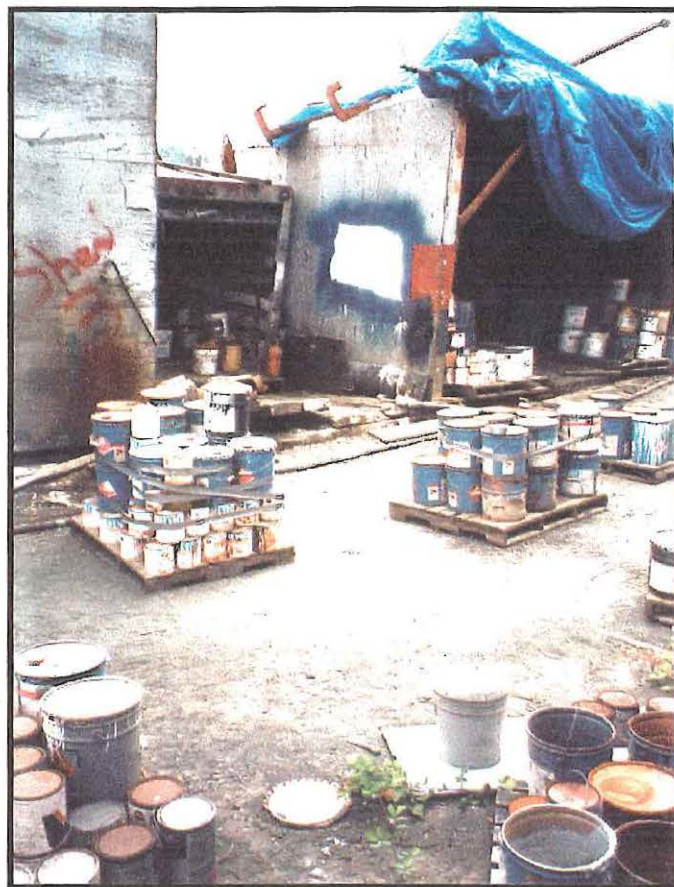
Mid-Coast Marine

Mid-Coast Marine is an abandon shipyard facility located adjacent to Isthmus Slough in Coos Bay. Mid-Coast Marine operated a ship construction, repair and maintenance facility at the site through June 1997. All operations at the site ceased at that time. The Mid-Coast Corporation has since sought bankruptcy protection from creditors. DEQ named Mid-Coast a State Orphan site in June 1998.

A 1997 Site Inspection completed by EPA found the site soils and adjacent sediments to be contaminated with chemicals related to the shipyard industry. Specifically, intertidal samples contained chromium, copper, nickel, zinc and tributyltin at elevated concentrations. PCBs and several carcinogenic PAHs were also detected in site soils and sediments. The facility is located in a residential neighborhood and is adjacent to an important marine habitat area.

In April 1998, DEQ staff visited the site to evaluate potential environmental concerns. About 50 drums containing paint and solvent wastes were present on the site. Some of the drums appeared to be leaking and presented an immediate threat to the site. In June 1998, DEQ removed drums, tanks and other containers of solvents, paints and oils. In addition, DEQ removed several hundred cubic yards of used sandblast grit containing marine paint residues.

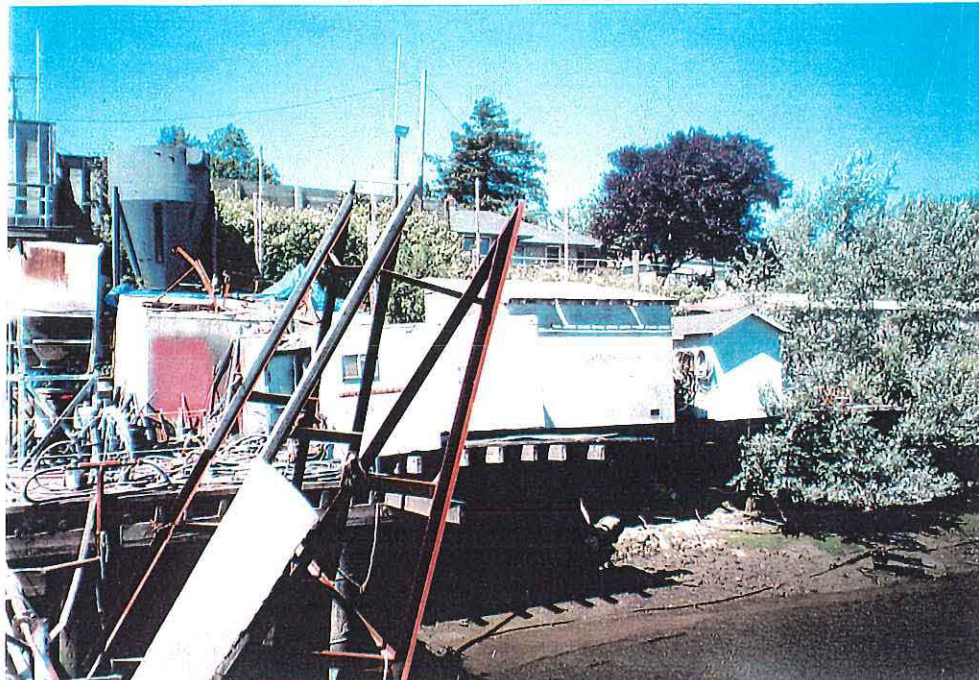
In November 1998, DEQ with assistance from the Oregon Department of Fish and Wildlife collected and analyzed shellfish samples from the slough adjacent to the site. The results indicate that several of the site contaminants are likely bioaccumulating in the shellfish.

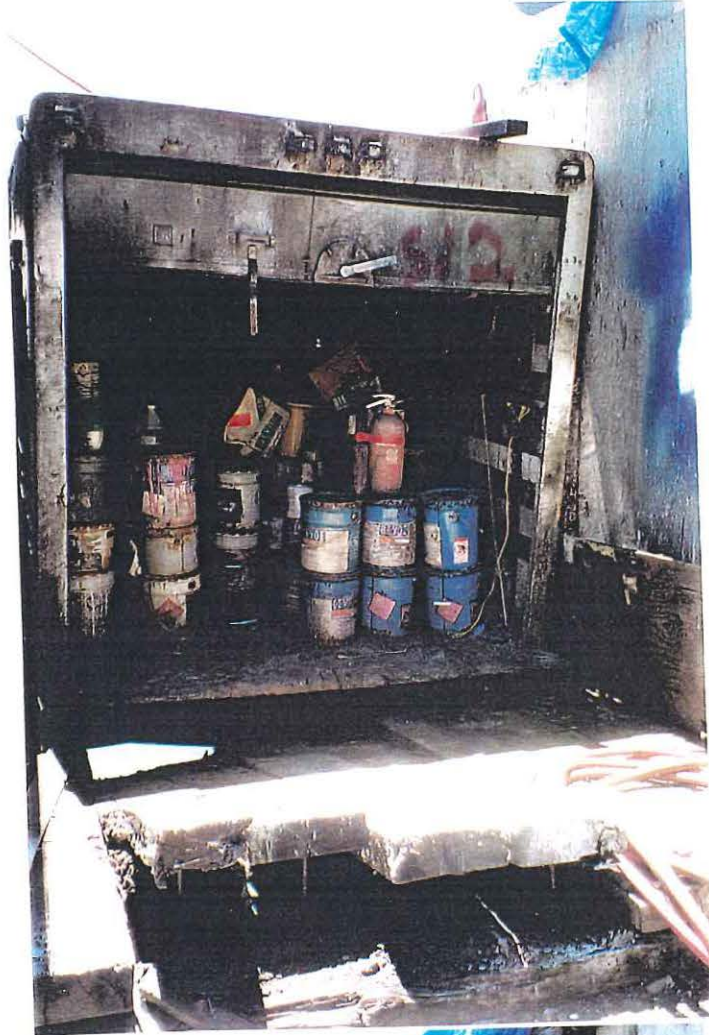


DEQ completed a detailed sampling of site soil, groundwater and sediment in April 1999. The analytical results confirmed the earlier findings and in July 1999, DEQ completed a removal of site surface soils. Approximately 1,800 tons of contaminated soil were removed from the site and replaced with clean backfill.

DEQ is currently planning a removal of contaminated sediments from the slough adjacent to the site. Sampling data indicates that as much as 3,500 cubic yards of contaminated sediment may have to be removed.

Following the sediment removal, DEQ will complete site restoration activities and work with Coos County to return the site to productive use.







NEW CARISSA SITE VISIT

RESPONSE TIMELINE

Feb.	3	The empty wood chip carrier New Carissa anchored off the Southern Oregon Coast near Coos Bay.
	4	The New Carissa drug her anchor and grounded on the Coos Bay North Spit.
	8	The storm battered New Carissa began to leak oil.
	10	Insurer declared New Carissa a constructive total loss after engine room flooded.
	11	Initiated in situ burn. New Carissa broke in half.
Mar.	1	Bow section towed off Coos Bay North Spit.
	2	Towline parted.
	3	Bow section grounded at Waldport.
	8	Bow section towed off Waldport beach.
	11	Bow section sunk at offshore disposal site.

WRECK REMOVAL OPERATION

The stern section of the New Carissa remains hard aground and embedded in the sea floor just offshore from the Coos Bay North Spit. The Responsible Party has contracted with DONJON/DEVINE for wreck removal. Donjon/Devine is a joint venture between Donjon Marine Co., Inc., a New Jersey Corporation, and Fred Devine Diving and Salvage Co., out of Portland, Oregon. The "No Cure, No Pay" wreck removal contract requires the contractor to completely remove the New Carissa shipwreck prior to receiving any payment. The contract also requires removal of the wreck to seaward rather than over the sensitive Coos Bay North Spit. Donjon/Devine commenced work on about June 1st.

The stern section of the shipwreck consists of the engineroom section, and the hull, deck, and bottom fuel tank structures. The engineroom section, while damaged and flooded, can be patched, dewatered, and refloated. In this manner, the engineroom section can be removed from the wreck site in one piece. However, in order accomplish this more expedient method of wreck removal, the floatable engineroom section will have to be separated from the unfloatable cargo hold structures. Those unfloatable structures will then have to be cut into smaller sections and removed piece by piece to shore recycling.

Donjon/Devine's wreck removal plan calls for the following:

- 1) patch the damaged engineroom section so that it is watertight,
- 2) cut the stern section into two pieces, separating the floatable engineroom section from the unfloatable structures,
- 3) dewater and refloat the engineroom section,
- 4) tow the engineroom section to deep sea disposal, and
- 5) cut and remove the unfloatable cargo hold structures (hull, deck and tank) piece by piece to shore recycling.

This plan minimizes the need to cut structures in place and reduces the potential for further oil releases.

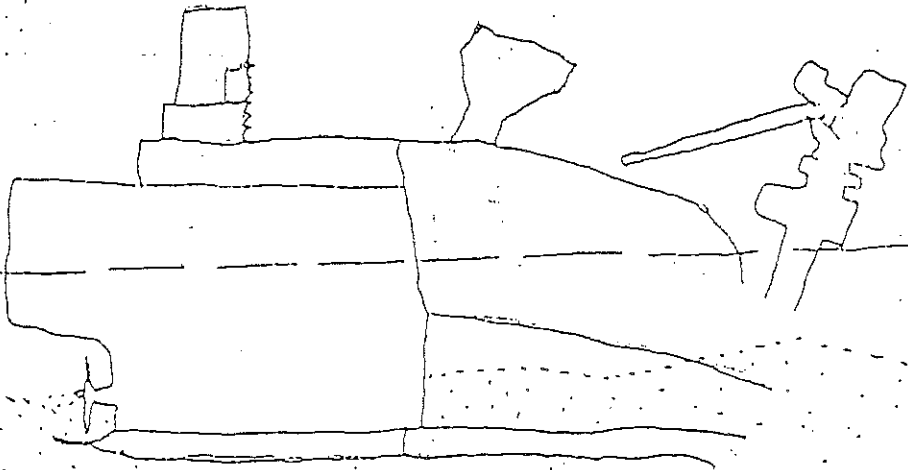
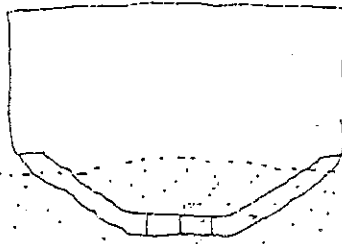
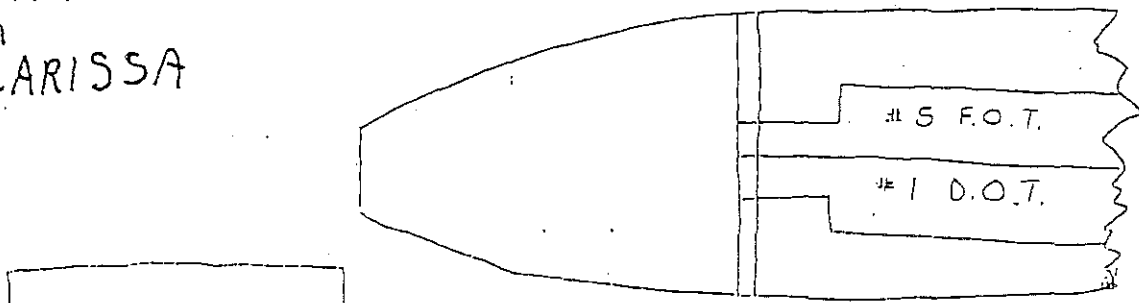
The major equipment involved in this operation includes the Derrick Barge Columbia New York (600 ton capacity), salvage tugs Atlantic Salvor and Salvage Chief, and an onboard support crane (150 ton capacity). The Columbia NY and the Atlantic Salvor were mobilized from the US East Coast. The Salvage Chief is from Astoria. The support crane was rented locally.

The cutting operation posed a greater oil release risk than any other phase of wreck removal. When the contractor undertook to cut the wreck in two, 4 tanks underneath the unfloatable cargo hold necessarily had to be breached. Two of these tanks contained oil when the New Carissa grounded. How much oil remained in these tanks was impossible to determine with certainty because the tank structures were buried in the sea floor in the surfzone. When these tanks were breached last week, we saw a slight spike in tarball activity on the beach near the wreck site. However, the release associated with the cutting operation was less than expected, and indicates there is less oil remaining in the buried tank structures than estimated.

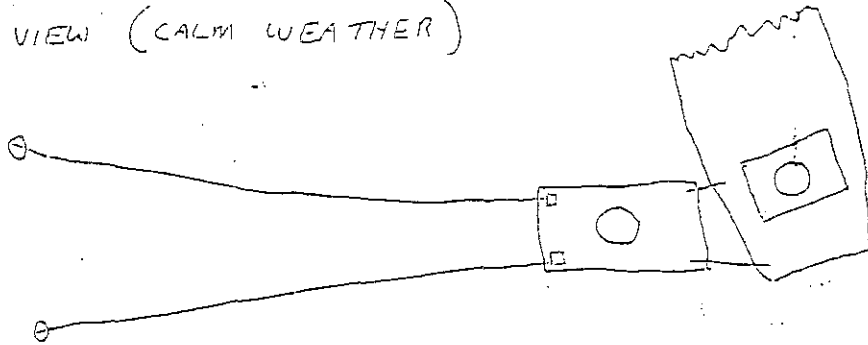
At present, the contractor has finished making the engineroom section watertight and has nearly completed cutting the wreck into two pieces. Additionally, most of the hull and deck structures associated with the cargo hold have been cut away and removed to shore recycling. Also, most of the onboard debris has been removed to shore disposal.

Large ocean swells associated with the approaching winter season will soon force the shutdown of wreck removal operations. Insufficient time remains this season to complete removal. Therefore, the contractor is concentrating all efforts on detaching, refloating and removing the engineroom section before the end of this construction season. The buried tank structures associated with the cargo hold will most likely remain embedded in the surf zone until next spring.

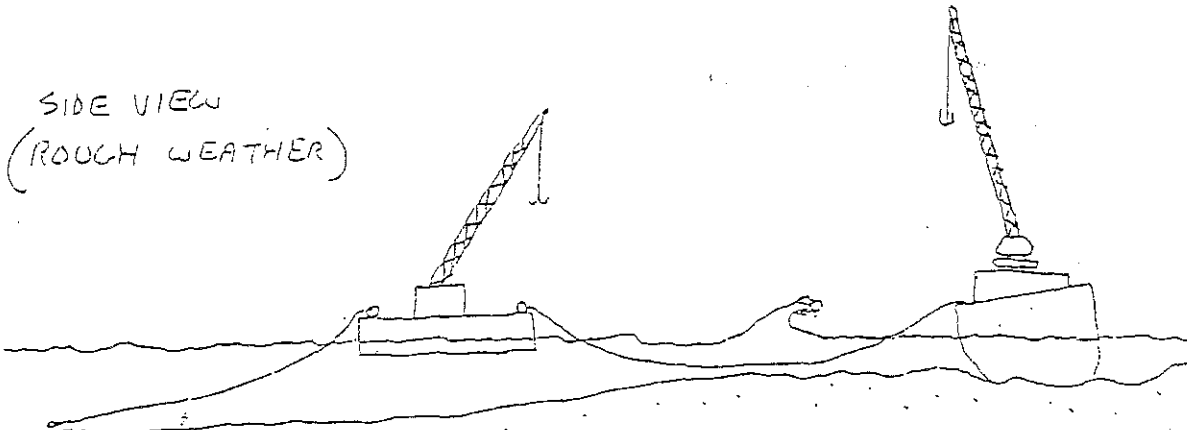
NEW
CARISSA



TOP VIEW (CALM WEATHER)





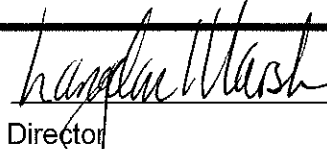
SIDE VIEW
(ROUGH WEATHER)



Environmental Quality Commission

- Rule Adoption Item
 Action Item
 Information Item

Agenda Item B
October 1, 1999 Meeting

Title: Tax Credit Applications		
Summary: Staff recommends the following actions regarding tax credits:		
	<u>Certified Cost</u>	<u>Value</u>
Approve		
<i>Pollution Control Facility Tax Credit</i>		
Air (7 applications)	\$929,285	\$464,643
Field Burning (6 applications)	\$406,372	\$164,143
Hazardous Waste (2 applications)	\$243,945	\$121,973
Solid Waste (18 applications)	\$1,937,629	\$968,815
USTs (11 applications)	\$1,881,636	\$866,319
Water (15 applications)	\$5,403,277	\$2,356,763
<i>Pollution Control Facility Tax Credit (59 applications)</i>	<u>\$10,802,144</u>	<u>\$4,942,655</u>
<i>Reclaimed Plastics Products Tax Credit</i>		
Plastics (3 applications)	\$71,405	\$35,703
	<u><u>\$10,873,549</u></u>	<u><u>\$4,978,357</u></u>
Approve (62 applications)		
Deny		
<i>Pollution Control Facility Tax Credit</i>		
Oil - Used (1 application)	\$5,695	
Solid Waste (4 applications)	\$3,158,589	
	<u>\$3,164,284</u>	
Deny (5 applications)		
Transfers		
Certificates Numbered 2602 and 3084		
Rejections		
Applications Numbered 5066 and 5067 – Untimely Filing		
Approve issuance of tax credit certificates for the applications presented in Attachment B. Deny issuance of tax credit certificates for the applications presented in Attachment C. Transfer tax credit certificates presented in Attachment D. Reject applications presented in Attachment E.		
 Report Author	 Division Administrator	 Director

September 13, 1999

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)

Commission Action

Agenda Item B

October 1, 1999

App.No.	Applicant	Cost	%Allocable	Value	Recommendation	Action
5213	Magnum Properties, Inc.	\$ 10,243	100%	\$ 5,122	Remove	
5214	United Disposal Service, Inc.	\$ 136,669	100%	\$ 68,334	Approve	
5215	William C. Smith Farms, Inc.	\$ 43,508	100%	\$ 21,754	Approve	
5216	Capitol Recycling & Disposal, Inc.	\$ 4,790	100%	\$ 2,395	Approve	
5217	Neuschwander, L.W.	\$ 125,870	86%	\$ 54,124	Approve	
5218	WWDD	\$ 7,405	100%	\$ 3,703	Approve	
5219	United Disposal Service, Inc.	\$ 4,275	100%	\$ 2,138	Approve	
5220	United Disposal Service, Inc.	\$ 4,260	100%	\$ 2,130	Approve	
5222	Freres Lumber Company, Inc.	\$ 120,000	100%	\$ 60,000	Approve	
5224	Bimor Stations, Inc.	\$ 93,262	86%	\$ 40,103	Approve	
5225	4 B Farms, Inc.	\$ 105,452	63%	\$ 33,217	Approve	
5226	Magnum Properties, Inc.	\$ 16,595	100%	\$ 8,298	Approve	
5234	Bob Weber, Inc.	\$ 2,895	100%	\$ 1,448	Approve	
5235	Curtis Johnston	\$ 92,000	100%	\$ 46,000	Approve	
5237	Capitol Recycling & Disposal, Inc.	\$ 15,724	100%	\$ 7,862	Approve	
5238	Capitol Recycling & Disposal, Inc.	\$ 44,352	100%	\$ 22,176	Approve	
5239	Capitol Recycling & Disposal, Inc.	\$ 39,897	100%	\$ 19,949	Approve	
5241	Carson Oil Company	\$ 268,362	83%	\$ 111,370	Approve	
5244	TOC, Inc.	\$ 1,712	100%	\$ 856	Approve	
5245	Courtesy Automotive, Inc.	\$ 2,495	100%	\$ 1,248	Approve	
5247	Jubitz Corporation	\$ 449,953	90%	\$ 202,479	Approve	
5250	United Disposal Service, Inc.	\$ 165,744	100%	\$ 82,872	Approve	
5251	BEST BUY IN TOWN, INC.	\$ 46,093	100%	\$ 23,047	Approve	
5252	Capitol Recycling & Disposal, Inc.	\$ 4,530	100%	\$ 2,265	Approve	
5253	Capitol Recycling & Disposal, Inc.	\$ 187,416	100%	\$ 93,708	Approve	
Attachment C - Denials						
4860	Waste Control Systems, Inc.	\$ 3,091,970	0%		Deny	
5154	TOC, Inc.	\$ 5,695	0%		Deny	
5197	Sabroso Corporation	\$ 32,062	0%		Remove	
5199	Sabroso Corporation	\$ 9,914	0%		Remove	
5200	Sabroso Corporation	\$ 24,643	0%		Remove	
Attachment D - Transfers						
	Certificate #2602 and 3084				Transfer	
Attachment E - Rejections						
5066	PGE	\$ 66,785	0%		Reject	
5067	PGE	\$ 132,217	0%		Reject	

Commission Action

Agenda Item B

October 1, 1999

App.No.	Applicant	Cost	%Allocable	Value	Recommendation	Action
Attachment A - Approvals						
4816	IDT	\$ 2,252,909	100%	\$ 1,126,455	Approve	
4928	Willamette Industries, Inc.	\$ 730,586	100%	\$ 365,293	Remove	
4959	Tidewater Barge Lines, Inc.	\$ 775,000	56%	\$ 217,000	Approve	
4965	Tidewater Barge Lines, Inc.	\$ 775,000	55%	\$ 213,125	Approve	
5004	Widmere Brothers Brewing Co.	\$ 102,442	100%	\$ 51,221	Approve	
5047	Mitsubishi Silicon America	\$ 157,664	100%	\$ 78,832	Approve	
5048	Mitsubishi Silicon America	\$ 517,957	100%	\$ 258,979	Approve	
5065	PGE	\$ 70,855	100%	\$ 35,428	Approve	
5090	PGE	\$ 23,090	100%	\$ 11,545	Approve	
5091	Praegitzer Industries, Inc.	\$ 48,740	100%	\$ 24,370	Approve	
5111	Denton Plastics, Inc.	\$ 32,000	100%	\$ 16,000	Approve	
5125	PGE	\$ 242,117	100%	\$ 121,059	Approve	
5126	PGE	\$ 44,045	100%	\$ 22,023	Approve	
5127	Merix Corporation	\$ 444,044	100%	\$ 222,022	Approve	
5147	Coburg Mini Storage	\$ 2,980	100%	\$ 1,490	Approve	
5148	Don G. Averill Trucking, Inc.	\$ 6,000	100%	\$ 3,000	Approve	
5156	JR Simplot Company	\$ 757,749	100%	\$ 378,875	Remove	
5165	United Disposal Service, Inc.	\$ 15,672	100%	\$ 7,836	Approve	
5168	Jackson Oil, Inc.	\$ 31,550	100%	\$ 15,775	Approve	
5169	Jackson Oil, Inc.	\$ 77,735	100%	\$ 38,868	Approve	
5170	Miles Investment, L.L.C.	\$ 94,250	86%	\$ 40,528	Approve	
5173	Roger Neuschwander	\$ 5,500	100%	\$ 2,750	Approve	
5175	Tydan Farms	\$ 34,042	37%	\$ 6,298	Approve	
5177	B K & S Corporation	\$ 1,980	100%	\$ 990	Approve	
5184	Capitol Recycling & Disposal, Inc.	\$ 10,064	100%	\$ 5,032	Approve	
5186	Robert L. Secolo/Land Development	\$ 372,786	96%	\$ 178,937	Approve	
5187	United Disposal Service, Inc.	\$ 46,603	100%	\$ 23,301	Approve	
5188	Capitol Recycling & Disposal, Inc.	\$ 173,298	100%	\$ 86,649	Approve	
5189	Capitol Recycling & Disposal, Inc.	\$ 6,734	100%	\$ 3,367	Approve	
5190	Wilco Farmers	\$ 286,975	94%	\$ 134,878	Approve	
5193	Sherlock Oil Company	\$ 153,679	100%	\$ 76,840	Approve	
5194	Safeway, Inc.	\$ 20,951	100%	\$ 10,476	Approve	
5203	Morse Bros., Inc.	\$ 282,897	100%	\$ 141,448	Approve	
5205	Capitol Recycling & Disposal, Inc.	\$ 195,205	100%	\$ 97,603	Approve	
5209	Powell Butte Country Store, Inc.	\$ 32,133	100%	\$ 16,067	Approve	
5211	Capitol Recycling & Disposal, Inc.	\$ 22,815	100%	\$ 11,408	Approve	

Date: September 13, 1999
To: Environmental Quality Commission
From: Langdon Marsh, Director
Subject: Agenda Item B, September 30, 1999, EQC Meeting
Tax Credit Applications

Statement of the Need for Action

This staff report presents analysis of pollution control facility and reclaimed plastics products tax credit applications. It also presents the Department's recommendation for Commission action on these applications.

- All applications are summarized in Attachment A of this staff report.
- Applications recommended for Approval are presented in detail in Attachment B.
- Applications recommended for Denial are presented in Attachment C.
- Certificate transfers are presented in Attachment D.
- Rejections are presented in Attachment E

Background APPROVALS: Attachment B

Tidewater Barge Lines, Inc. - Applications Numbered 4959 and 4965

The applicant claimed the double-hull construction of *Tri-Cities Voyager* and *The Prospector* as pollution control facilities. The applicant claimed that the second hull protects the cargo tanks from damage should the exterior hull become damaged or punctured.

The Department initially recommended the denial of applications numbered 4959 and 4965 because that recommendation was consistent with the information presented in applications and with Commission's denial of a similar tax credit in 1995 (application numbered 4417).

On June 18, 1998, David E. Filippi, attorney for Tidewater Barge Lines, Inc., provided supplemental evidence regarding applications numbered 4959 and 4965. The applicant showed that improved safety of the vessel and crew, lower insurance costs, and the protection of petroleum products being carried were not motivating factors for the double hulling of two barges. The Department has no specific evidence to the contrary.

Background DENIALS: Attachment C

Waste Control Systems, Inc. – Application Number 4860

Staff presented application number 4860 to the Commission on June 25, 1999. The applicant requested that tax credit application number 4860 be pulled from the agenda at that time so they could research the inclusion of tipping fees as income when considering the return on investment for the facility. The applicant did not present the additional information.

Waste Control Systems, Inc. claimed a recycling station at its Willamette Resources, Inc. location. They claimed the facility is not integral to the operation of their business. Their reasoning is that the facility operates under the name Willamette Resources, Inc. (WRI), a wholly-owned subsidiary of Waste Control Systems, Inc. (WCS), and that WCS files the consolidated tax return. The applicant states that WRI was incorporated to operate the facility and to simplify the accounting and reporting requirements.

The Department did not address the facility as integral to the operation of the applicant's business because the percentage allocable to pollution control was zero percent using the standard return on investment calculations.

When considering revenue and expenditures, the applicant included commodity sales but did not include tipping fees. Once the return on investment was recalculated 1) excluding ineligible costs identified by the reviewers and 2) including the tipping fees, and 3) utilizing actual operating results, the percentage of the facility cost allocable to pollution control is zero percent.

Transferral of Certificates – Attachment D

Evelyn L. Fleming requested the transfer of Pollution Control Facility Tax Credit Certificate Number 3084 to Jim and Harold Pliska. A copy of the request and the certificate are shown in Attachment D.

On June 29, 1999, Paul Kirsh requested that tax credit certificate number 2602 be transferred from Kirsh Family Farms, Inc., to Paul Kirsh, the sole owner of Kirsh Family Farms, Inc. A copy of the request and the certificate are shown in Attachment D.

Rejection of Applications – Attachment E

Portland General Electric Company submitted applications 5066 and 5067 more than two years after the facility was constructed. *ORS 468.165 (6)* The applicant concurred with staff's analysis.

Background DENIALS: Attachment C

Waste Control Systems, Inc. – Application Number 4860

Staff presented application number 4860 to the Commission on June 25, 1999. The applicant requested that tax credit application number 4860 be pulled from the agenda at that time so they could research the inclusion of tipping fees as income when considering the return on investment for the facility. The applicant did not present the additional information.

Waste Control Systems, Inc. claimed a recycling station at its Willamette Resources, Inc. location. They claimed the facility is not integral to the operation of their business. Their reasoning is that the facility operates under the name Willamette Resources, Inc. (WRI), a wholly-owned subsidiary of Waste Control Systems, Inc. (WCS), and that WCS files the consolidated tax return. The applicant states that WRI was incorporated to operate the facility and to simplify the accounting and reporting requirements.

The Department did not address the facility as integral to the operation of the applicant's business because the percentage allocable to pollution control was zero percent using the standard return on investment calculations.

When considering revenue and expenditures, the applicant included commodity sales but did not include tipping fees. Once the return on investment was recalculated 1) excluding ineligible costs identified by the reviewers and 2) including the tipping fees, and 3) utilizing actual operating results, the percentage of the facility cost allocable to pollution control is zero percent.

Transferal of Certificates – Attachment D

Evelyn L. Fleming requested the transfer of Pollution Control Facility Tax Credit Certificate Number 3084 to Jim and Harold Pliska. A copy of the request and the certificate are shown in Attachment D.

On June 29, 1999, Paul Kirsh requested that tax credit certificate number 2602 be transferred from Kirsh Family Farms, Inc., to Paul Kirsh, the sole owner of Kirsh Family Farms, Inc. A copy of the request and the certificate are shown in Attachment D.

Rejection of Applications – Attachment E

Portland General Electric Company submitted applications 5066 and 5067 more than two years after the facility was constructed. *ORS 468.165 (6)* The applicant concurred with staff's analysis.

Conclusions

The recommendations for action on the attached applications are consistent with statutory provisions and administrative rules related to the pollution control and reclaimed plastic product tax credit programs.

Recommendation for Commission Action

The Department recommends the Commission approve certification for the tax credit applications as presented in Attachment B of the Department's Staff Report.

The Department recommends the Commission deny the applications presented in Attachment C of the Department's Staff Report.

The Department recommends the Commission transfer the certificates found in Attachment D of the Department's Staff Report.

The Department recommends the Commission reject the certificates found in Attachment E of the Department's Staff Report.

Intended Follow-up Actions

Notify applicants of Environmental Quality Commission actions. Notify Department of Revenue of Issued, Transferred or Revoked certificates. Transmit electronic files to Department of Revenue.

Attachments

- A. Summary
- B. Approvals
- C. Denials
- D. Transfer
- E. Rejections

Reference Documents (available upon request)

- 1. ORS 468.150 through 468.190.
- 2. OAR 340-16-100 through 340-16-125.
- 3. OAR 340-16-005 through 340-16-050.

Approved:

Section:

bruce daugell for SPR

Division:

MVA

Report Prepared by: Margaret Vandehey

Phone: (503) 229-6878

Date Prepared: September 13, 1999

Attachment A

Summary

Application Summary

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Approvals					
Air					
5047	Mitsubishi Silicon America	installed an acid exhaust scrubber	\$157,664	100%	\$78,832
5156	JR Simplot Company	A fryer exhaust wet ESP control system.	\$757,749	100%	\$378,875
5177	B K & S Corporation	An automatic refrigerant recovery system that recycles, recharges and flushes the system.	\$1,980	100%	\$990
5216	Capitol Recycling & Disposal, Inc.	one-thousand fire red 14-gal recycle bins	\$4,790	100%	\$2,395
5234	Bob Weber, Inc.	automotive A/C recycling equipment; R-12 & R-134A recovery and recycling machine	\$2,895	100%	\$1,448
5244	TOC, Inc.	R-12 Recovery & Recycling machine	\$1,712	100%	\$856
5245	Courtesy Automotive, Inc	R-12 & R-134A Recovery & Recycling machine	\$2,495	100%	\$1,248
Air (7 applications)			\$929,285		\$464,643
Field Burning					
5173	Roger Neuschwander	Alternative to field burning.	\$5,500	100%	\$2,750
5175	Tydan Farms	One mower SN RC15 10049 and a John Deere tractor model 4440 Serial number 4440 HD 40016.	\$34,042	37%	\$6,298
5215	William C. Smith Farms, Inc.	New Holland baler model #585, serial #948342	\$43,508	100%	\$21,754
5217	Neuschwander, L.W.	8400 Tractor	\$125,870	86%	\$54,124
5225	4 B Farms, Inc.	John Deere 7810 and Flail Chopper	\$105,452	63%	\$33,217
5235	Curtis Johnston	four buildings for the storage of straw	\$92,000	100%	\$46,000
Field Burning (6 applications)			\$406,372		\$164,143
Hazardous Waste					
5091	Praegitzer Industries, Inc.	installed two 50-gallon high density polyethylene storage tanks equipped with level controls and a concrete secondary containment system.	\$48,740	100%	\$24,370
5205	Capitol Recycling & Disposal, Inc.	purchased four thousand two hundred seventy eight 95-gallon Schaefer yard debris carts	\$195,205	100%	\$97,603
Hazardous Waste (2 applications)			\$243,945		\$121,973

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Solid Waste					
4928	Willamette Industries, Inc.	Wood waste recovery system.	\$730,586	100%	\$365,293
5165	United Disposal Service, Inc.	Four 48.9 yard SC style drop boxes, serial numbers #10684, 10685, 10690 and 10691.	\$15,672	100%	\$7,836
5184	Capitol Recycling & Disposal, Inc.	two 48.9-yd SC style drop boxes, serial numbers 9750 and 9751	\$10,064	100%	\$5,032
5187	United Disposal Service, Inc.	one new International Model 4700 LP Cab/Chassis Vin 1HTSLAAL5XH614796 Engine DT466E Serial #001128183	\$46,603	100%	\$23,301
5188	Capitol Recycling & Disposal, Inc.	one new Volvo truck model WXR42, serial #4V4EAKPE1VR741301 and one new Heil Rapid Rail Starr System serial #1H9BCGF9V8270096	\$173,298	100%	\$86,649
5189	Capitol Recycling & Disposal, Inc.	20 two-yd rear load recycling containers serial numbers 146834 through 146853	\$6,734	100%	\$3,367
5203	Morse Bros., Inc.	drum system for recycling asphalt	\$282,897	100%	\$141,448
5211	Capitol Recycling & Disposal, Inc.	added five hundred 95-gal Schaefer yard debris carts, serial #Y5009001 thru #Y5009500	\$22,815	100%	\$11,408
5214	United Disposal Service, Inc.	one new Volvo truck, serial #4VMHAKMD5WN757209 and one new Kann Hi-jacker side dump series "Tough Loader" serial #TL42-4783, TL84-4784, TL85-4785, TL66-4786	\$136,669	100%	\$68,334
5219	United Disposal Service, Inc.	one-thousand red 14-gal recycle bins	\$4,275	100%	\$2,138
5220	United Disposal Service, Inc.	one-thousand storehouse white 14-gallon recycle bins	\$4,260	100%	\$2,130
5237	Capitol Recycling & Disposal, Inc.	four 40-yd drop boxes, serial #10158 to #10161	\$15,724	100%	\$7,862
5238	Capitol Recycling & Disposal, Inc.	972 95-gal Schaefer yard debris carts. Serial #Y95008029 thru #Y950090000	\$44,352	100%	\$22,176
5239	Capitol Recycling & Disposal, Inc.	Ten 40-yard SC style drop boxes serial #10485 thru #10494	\$39,897	100%	\$19,949
5250	United Disposal Service, Inc.	one new 1998 Volvo Tractor, Serial #4V4EAKNE-9WN757577 & one new Heil Raped Rail Starr automated loading only system & one new Hail Rapid Rail trailer	\$165,744	100%	\$82,872
5251	BEST BUY IN TOWN, INC.	yard debris mulch screen Portec 7221 Trommel serial #93121051	\$46,093	100%	\$23,047
5252	Capitol Recycling & Disposal, Inc.	1000 fire-red 14-gallon recycle bins	\$4,530	100%	\$2,265

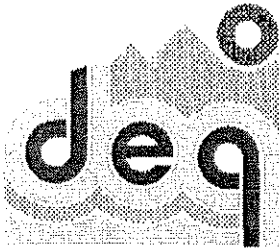
Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Solid Waste continued...					
5253	Capitol Recycling & Disposal, Inc.	one new Volvo truck, model WXR2T, serial #4V4EAKPE4WN754566, one new Heil Rapid Rail Starr System, a semi-trailer side loading automated system including all standard features, body serial #8200118	\$187,416	100%	\$93,708
Solid Waste (18 applications)			\$1,937,629		\$968,815
USTs					
5168	Jackson Oil, Inc.	An epoxy tank lining system and cathodic protection.	\$31,550	100%	\$15,775
5169	Jackson Oil, Inc.	installed an epoxy tank lining system and cathodic protection, product piping and turbine sumps, dispensor sumps with monitoring system	\$77,735	100%	\$38,868
5170	Miles Investment, L.L.C.	installed upgrades to meet requirements	\$94,250	86%	\$40,528
5186	Robert L. Secolo/Land Development	installed one 20,000 gallon tank and one 15,000 tank double wall perma tank	\$372,786	96%	\$178,937
5190	Wilco Farmers	brought USTs to requirements of EPA	\$286,975	94%	\$134,878
5193	Sherlock Oil Company	to upgrade facility to meet EPA requirements	\$153,679	100%	\$76,840
5194	Safeway, Inc.	to upgrade facility to meet EPA requirements	\$20,951	100%	\$10,476
5209	Powell Butte Country Store, Inc.	tank system installed to comply with underground storage tank requirements imposed by the federal EPA and OAR chapter 340, Division 150	\$32,133	100%	\$16,067
5224	Bimor Stations, Inc.	Upgraded facility to meet federal requirements for underground storage tanks.	\$93,262	86%	\$40,103
5241	Carson Oil Company	upgrade UST to meet EPA/State requirements	\$268,362	83%	\$111,370
5247	Jubitz Corporation	tanks and fueling system were installed to meet Federal & State requirements	\$449,953	90%	\$202,479
USTs (11 applications)			\$1,881,636		\$866,319
Water					
4816	Integrated Device Technology (IDT)	Acid Waste Neutralization & Chemical Metal Polishing Pumping Station/Gray Water Recycling.	\$2,252,909	100%	\$1,126,455
4959	Tidewater Barge Lines, Inc.	Double hull for The Prospector to create a void between the cargo area and water.	\$775,000	56%	\$217,000
4965	Tidewater Barge Lines, Inc.	Double hull for The Tri-Cities Voyager to create a void between the cargo area and water.	\$775,000	55%	\$213,125

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Water continued...					
5004	Widmere Brothers Brewing Company	waste water collection system and pH adjustment system	\$102,442	100%	\$51,221
5048	Mitsubishi Silicon America	installed a acid waste neutralization system	\$517,957	100%	\$258,979
5065	Portland General Electric Company	a lined spill containment system	\$70,855	100%	\$35,428
5090	Portland General Electric Company	An Oil/water separator.	\$23,090	100%	\$11,545
5125	Portland General Electric Company	installed a lined containment drainage system	\$242,117	100%	\$121,059
5126	Portland General Electric Company	Installation of a lined containment system that drains to a vault	\$44,045	100%	\$22,023
5127	Merix Corporation	a water recycling system that utilizes activated carbon absorption columns, cation exchange columns and anion exchange columns to remove non-carbon organics, metallic ions, and negatively charged ions.	\$444,044	100%	\$222,022
5147	Coburg Mini Storage/Richard & Colleen Witzel	A catch basin with an oil/water separator.	\$2,980	100%	\$1,490
5148	Don G. Averill Trucking, Inc.	An oil/water separator for a truck washing facility.	\$6,000	100%	\$3,000
5213	Magnum Properties, Inc.	a wash water recycling system Model ALPHA-500D	\$10,243	100%	\$5,122
5222	Freres Lumber Company, Inc.	closed loop wash water recycling system	\$120,000	100%	\$60,000
5226	Magnum Properties, Inc	wash water recycling system	\$16,595	100%	\$8,298
Water (15 applications)			\$5,403,277		\$2,356,763
Pollution Control Facility Tax Credit (59 applications)			\$10,802,144		\$4,942,655
Reclaimed Plastics Products Tax Credit					
5111	Denton Plastics, Inc.	purchased a Herbolt PU500 pullverizer, 65 hp	\$32,000	100%	\$16,000
5207	WWDD Partnership	a Herbolt PU500 pulverizer, 65 hp	\$32,000	100%	\$16,000
5218	WWDD	Sweco Vibro Energy Separator Unit.	\$7,405	100%	\$3,703
Reclaimed Plastics Products Tax Credit (3 applications)			\$71,405		\$35,703
Approvals (62 applications)			\$10,873,549		\$4,978,357

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Denials					
Pollution Control Facility Tax Credit					
Oil - Used					
5154	TOC, Inc.	Used oil recycling system	\$5,695	100%	\$2,848
Oil - Used (1 application)			\$5,695		\$2,848
Solid Waste					
4860	Waste Control Systems, Inc.	Mixed Waste processing/recovery facility & equipment	\$3,091,970	0%	\$0
5197	Sabroso Corporation	purchased a floor sweeper/scrubber to remove debris from floors & outside operations lots Model 8200 serial #8200-6029	\$32,062	0%	\$0
5199	Sabroso Corporation	replaced screen section on the waste water pretreatment Hycor rotary screen device	\$9,914	0%	\$0
5200	Sabroso Corporation	portable solid waste land application spreader serial #0994 20980 39002	\$24,643	0%	\$0
Solid Waste (4 applications)			\$3,158,589		\$0
Denials (5 applications)			\$3,164,284		\$0
Rejections					
Pollution Control Facility Tax Credit					
Water					
5066	Portland General Electric Company	a lined spill containment system	\$66,785	0%	\$0
5067	Portland General Electric Company	a lined spill containment system	\$132,217	0%	\$0
Rejections (2 applications)			\$199,002		\$0

Attachment B

Approvals



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	Integrated Device Technology
Application No.	4816
Facility Cost	\$2,252,909
Percentage Allocable	100%
Useful Life	10 years

Pollution Control Facility Tax Credit: Water Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as an airplane parts manufacturer. The applicant's taxpayer identification number is 94-2669985 and their address is:

**2975 Stender Way
Santa Clara, CA 95054**

Facility Identification

The certificate will identify the facility as:

A Wastewater Pretreatment and Recycling Facility consisting of:

1. Acid Waste Neutralization
2. Chemical Metal Polishing Pumping Station
3. Gray Water Recycling System

The applicant is the owner of the facility located at:

**3131 NE Brookwood Parkway
Hillsboro, OR 97124**

Technical Information

The Wastewater Pretreatment and Recycling Facility consists of three systems which control and treat wastewater streams generated from the manufacture of high performance integrated circuits and modules.

1. **Acid Waste Neutralization System** - The system consists of 3-7,500 gallon fiberglass plastic tanks, 1-6,000 gallon magnesium hydroxide tank, 1-200 gallon sulfuric acid tank and associated plumbing and electronic control system. Wastewater from the integrated circuits manufacturing processes is treated with magnesium hydroxide or sulfuric acid to adjust pH and discharged to the Unified Sewerage Agency (USA) sewer system.

2. **Chemical Metal Polishing Pumping Station** – There are four (4) dewatering wells in the entire pollution control facility and each has a pump. The system consists of sumps, associated plumbing and electronic controls. Wastewater from the chemical metal polishing process is pumped for treatment through the Acid Waste Neutralization System.

3. **“Gray” Water Recycling** - The main components of this system includes a 4,000 gallon de-ionized water reclaim tank, 1 fiberglass reinforced plastic tank, 14 foot diameter gray water storage tank, associated plumbing and electronic control system. The gray water recycling system collects used water with pH levels between 4.6 and 7.5. This water is then reused for non-critical applications such as water for space heating and cooling loops, hydronic scrubber loops, and equipment cooling loops. The result is a reduction in the amount of treated wastewater discharged to the USA sewer system.

Since the installation of the wastewater pretreatment and recycling facility IDT has been in compliance with the requirements of the waste discharge permit issued by USA under the pretreatment program. The Department has approved the pretreatment program that USA is implementing for industrial waste discharges to its sewer system. The gray water recycling system resulted to a reduced discharge of 3.65 million gallons per year of wastewater to the sewer.

Eligibility The facility is eligible because:

- ORS 468.155 (1)(a) The **principal purpose** of this **new installation** is to comply with a requirement to control a substantial quantity of water pollution. The requirement is imposed by the Department under OAR 340-45-0063. The Unified Sewerage Agency, owner of sewerage system receiving industrial waste is responsible for assuring that the industrial contributor meets the categorical pretreatment standards established by the federal EPA.
- ORS 468.155 (1)(b)(A) The control is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>7/30/1997</u>
<i>Application Substantially Complete</i>	<u>7/22/1999</u>
<i>Construction Started</i>	<u>10/1/1994</u>
<i>Construction Completed</i>	<u>8/1/1995</u>
<i>Facility Placed into Operation</i>	<u>10/1/1995</u>

Facility Cost

Claimed Facility Cost	\$2,252,909
Ineligible Costs	
Eligible Facility Cost	<u>\$2,252,909</u>

A Cost Summary Detail accompanied the application. Kessler & Company, PC provided the independent auditor's report. Maggie Vandehey performed the accounting review on behalf of the Department. Invoices for materials and contracting services, purchase orders, vendor confirmations and the daily paid check listing from the bank substantiated the cost of the facility. No ineligible costs, including piping appeared to have been claimed.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	The Gray Water Recycling system reduces the annual water and sewer utility by recycling 3.65 million gallons of gray water. The utility rates for fresh water and sewer are \$1.3 and \$2.05 respectively per 1,000 gallons. The combined annual utility savings are estimated at \$12,228. However, the operating and maintenance cost is \$185,880 with a negative cash flow of \$173,652 per year.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

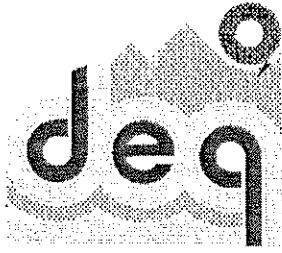
Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with the federal Environmental Protection Agency rules.

There are no DEQ permits issued to the applicant. Unified Sewerage Agency Industrial User Discharge Permit #133-202. The claimed facility is in compliance with the limits and conditions of the waste discharge permit issued by the USA.

Reviewers: RCDulay
Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	Willamette Industries, Inc.
Application No.	4928
Facility Cost	\$730,586
Percentage Allocable	100%
Useful Life	7 years

Pollution Control Facility Tax Credit: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a paper mill. The applicant's taxpayer identification number is 93-0312940 and their address is:

**1300 SW Fifth Avenue
Suite 3800
Portland, OR 97201**

Facility Identification

The certificate will identify the facility as:

Wood waste recovery system.

The applicant is the owner of the facility located at:

**50 North Danebo Avenue
Eugene, OR 97402**

Technical Information

This facility receives and purchases ground up urban wood waste, for example, old pallets and construction scrap, from wood processors. The facility screens and cleans this material prior to adding it to the feedstock mix used to manufacture medium density fiberboard (MDF). The MDF plant operated prior to installation of this facility and could continue to operate without this facility.

Eligibility

- ORS 468.155 The **sole purpose** of this **new structure and equipment** is to prevent, control or
(1)(a) reduce a substantial quantity of solid waste.
- ORS 468.155 The use of a material recovery process which obtains useful material from
(1)(b)(D) material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	2/2/98
<i>Additional Information Requested</i>	4/15/98
<i>Application Substantially Complete</i>	2/10/98
<i>Construction Started</i>	2/19/96
<i>Construction Completed</i>	2/19/96
<i>Facility Placed into Operation</i>	2/19/96

Facility Cost

Facility Cost	\$730,586
Ineligible Costs	\$ -
Eligible Facility Cost	\$730,586

KPMG Peat Marwick provided the certified public accountant's statement verifying the cost of the claimed facility. Symonds, Evans & Larson, P.C. provided the accounting review on behalf of the Department.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

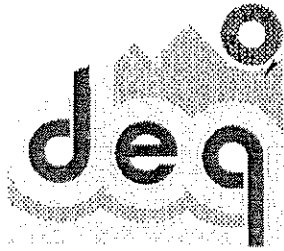
Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. The average annual cash flow associated with this facility is negative.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. No DEQ permits were issued to this facility.

Reviewers: William R Bree
Symonds, Evans & Larson



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **Approve**

Applicant	Tidewater Barge Lines, Inc.
Application No.	4959
Facility Cost	\$775,000
Percentage Allocable	56%
Useful Life	10 years

Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation and is operating as a tow boat company. The applicant's taxpayer identification number is 93-0278300. The applicant's address is:

**63050 NW Old Lower River Road
Vancouver, WA 98660**

The applicant is the leasee of the facility. Tidewater Barge Lines is an Oregon corporation. *The Prospector* is under lease to Tidewater from Banc One Leasing Corporation, the barge owner. A copy of the lease agreement was attached to the application as required for leased facilities.

Technical Information

The facility is the newly constructed double hulling of the steel petroleum barge, *The Prospector*. *The Prospector's* dimensions are 272' X 18' 6" and it has the capacity of 62,500 bbls. Zidell Marine Corporation constructed the barge. The double hull is constructed of plate steel and steel beams that create a void between the cargo tanks and the water. Thus providing some assurance that a puncture or damage to the exterior hull will not reach the cargo tanks.

Specific requirements for double-hulled construction are outlined in the Oil Pollution Act of 1990.

Facility Identification

The facility is identified as:

**Double hull for *The Prospector* to
create a void between the cargo area
and water.**

The facility is portable and used in Oregon and Washington waters and may sometimes be located at:

**Portland Harbor
Portland, OR**

Eligibility

- ORS 468.155 The **principal purpose** of this **new installation** was **not** required by DEQ or
 (1)(a) EPA in order to prevent, control or reduce a substantial quantity of water
 pollution.

The applicant provided supplemental evidence showing that improved safety of the vessel and crew, lower insurance costs, and the protection of petroleum products being carried were not motivating factors for the double hulling of the barge. Similarly, the applicant maintains that reduction of the risk of financial liability in the event of an oil spill was not a motivating factor, and the Department has no specific evidence to the contrary. Consequently, staff has determined that the **sole purpose** and "exclusive purpose" of double-hulling of *The Prospector* is to **prevent or control water pollution** as required by the United States Coast Guard.

- OAR-016-0025 Installation or construction of facilities; which will be used to detect, deter, or
 (2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>3/16/98</u>
<i>Application Substantially Complete</i>	<u>11/3/98</u>
<i>Additional Information Provided</i>	<u>6/18/99</u>
<i>Construction Started</i>	<u>6/1/95</u>
<i>Construction Completed</i>	<u>3/27/96</u>
<i>Facility Placed into Operation</i>	<u>3/27/96</u>

Facility Cost

Facility Cost	\$775,000
Ineligible Costs	0
Eligible Facility Cost	<u>\$775,000</u>

Copies of the invoice and checks were attached to the application substantiating the total cost of the barge as paid to Zidell Marine Corporation.

Facility Cost Allocable to Pollution Control

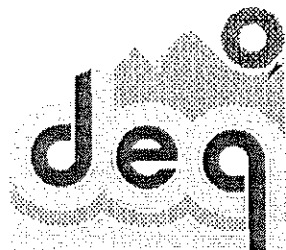
Since the facility cost exceeds \$50,000, according to ORS.190 (1) the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 30 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	This facility is portable and used in Oregon and Washington waters. Revenue analysis shows that approximately 56% of the tonnage hauled by <i>The Prospector</i> is to ports within the state of Oregon. Therefore, only 56% of the benefits would be allocable to pollution control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Elliot Zais, DEQ
Margaret C. Vandehey, DEQ



Tax Credit Review Report

EQC: 9909

Director's
Recommendation: **Approve**

Applicant	Tidewater Barge Lines, Inc.
Application No.	4965
Facility Cost	\$775,000
Percentage Allocable	55%
Useful Life	10 years

Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation and is operating as a tow boat company. The applicant's taxpayer identification number is 93-0278300. The applicant's address is:

**63050 NW Old Lower River Road
Vancouver, WA 98660**

A notarized statement from the lessor, Sanwa Business Credit Corporation, authorizes Tidewater Barge Lines, Inc. to take any allowable credit on the facility. A copy of the lease agreement between Sanwa Business Credit Corporation, ship owner, and Tidewater Barge Lines, Inc. is attached to the application as required for leased facilities.

Technical Information

The facility is the newly constructed double hulling of the steel petroleum barge, *The Tri-Cities Voyager's* dimensions are 272' X 18' 6" and it has the capacity of 62,500 bbls. The barge was constructed by Zidell Marine Corporation. The double hull is constructed of plate steel and steel beams that create a void between the cargo tanks and the water. Thus providing some assurance that a puncture or damage to the exterior hull will not reach the cargo tanks. Specific requirements for double-hulled construction are outlined in the Oil Pollution Act of 1990.

Facility Identification

The certificate will identify the facility as:

Double hull for *The Tri-Cities Voyager* to create a void between the cargo area and water.

The facility is portable and used in Oregon and Washington waters and may sometimes be located at:

**Portland Harbor
Portland, OR**

Eligibility

ORS 468.155 The **principal purpose** of this **new installation** was **not** required by DEQ or
(1)(a) EPA in order to prevent, control or reduce a substantial quantity of water
pollution.

The applicant has provided supplemental evidence showing that improved safety of the vessel and crew, lower insurance costs, and the protection of petroleum products being carried were not motivating factors for the double hulling of the barge. Similarly, the applicant maintains that reduction of the risk of financial liability in the event of an oil spill was not a motivating factor, and the Department has no specific evidence to the contrary. Consequently, staff determined that the **sole purpose** of double-hulling of *The Tri-Cities Voyager* is **to prevent or control water pollution** as required by the United States Coast Guard.

OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within
the timing requirements of ORS
468.165 (6).

<i>Application Received</i>	<u>3/23/98</u>
<i>Application Substantially Complete</i>	<u>9/21/98</u>
<i>Additional Information Provided</i>	<u>6/18/99</u>
<i>Construction Started</i>	<u>6/1/95</u>
<i>Construction Completed</i>	<u>5/13/97</u>
<i>Facility Placed into Operation</i>	<u>5/13/97</u>

Facility Cost

Facility Cost	\$775,000
Ineligible Costs	0
Eligible Facility Cost	<u>\$775,000</u>

Copies of the invoice and checks were attached to the application substantiating the total cost of the barge as paid to Zidell Marine Corporation.

Facility Cost Allocable to Pollution Control

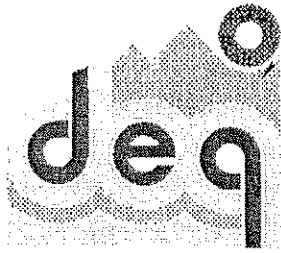
Since the facility cost exceeds \$50,000, according to ORS.190 (1) the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 30 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	This facility is portable and used in Oregon and Washington waters. Revenue analysis shows that approximately 55% of the tonnage hauled by <i>The Tri-Cities Voyager</i> is to ports within the state of Oregon. Therefore, only 55% of the benefits would be allocable to pollution control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Elliot Zais, DEQ
Margaret C.Vandehey, DEQ



Tax Credit Review Report

05/21/98 10:56 AM

Director's
Recommendation: **APPROVE**

Applicant **Widmer Brothers Brewing Company**
Application No. **5004**
Facility Cost **\$102,442**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility Tax Credit: Water Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a brewery. The applicant's taxpayer identification number is 93-0866469 and their address is:

**929 N. Russell
Portland, OR 97227**

Facility Identification

The certificate will identify the facility as:

**A water pollution control facility
consisting of a Waste Neutralization
System**

The applicant is the owner of the facility located at:

**924 N. Russell
Portland, OR 97227**

Technical Information

The claimed facility consists of waste collection piping, a sump and controls, and a neutralization system.

The waste collection piping is connected to the packaging floor drains, fermentation trench drains, brew house trench drains, and a single line for the combined wastewater streams from the brewing operations across the street at 929 N. Russell. The piping conveys the waste streams to a sump in the basement of the brew house. This portion of the claimed facility is not eligible as noted below in the *Facility Cost* section.

The 7,000 gallon sump holds the waste for treatment and is constructed of fiberglass, fitted with a duplex pumping system, a level control and alarming for transfer to the neutralization area.

The waste neutralization system consists of two 2,000 gallon stainless steel balancing tanks with agitation, pH and flow metering, control processor, additive pumps, and a duplex discharge pumping system. These components are housed in a containment room with piped-in CO₂ and a bulk caustic tank for neutralization. The pH is maintained between 5.5 and 11.5. The system neutralized approximately 17,600,000 gallons of wastewater in 1997.

Eligibility

Waste Collection Piping System

1993 ORS 468.155 (1)(a)(A) The **principal purpose** of this **new equipment**, as claimed by the applicant is **not** to prevent, control or reduce a substantial quantity of water pollution because it is not required by the DEQ or the Federal Environmental Protection Agency. The **sole purpose** of the piping is **not** to prevent, control, or reduce a substantial quantity of water pollution. The pipe system performs a material handling function only since it only conveys process waste to the holding sump.

Sump and Waste Neutralization System

1993 ORS 468.155 (1)(a)(A) The **principal purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of water pollution.
 ORS 468.155 (1)(b)(A) The disposal or elimination of or redesign to eliminate the use of treatment works for industrial waste as defined in ORS 468B.005 and is installed to comply with EPA, DEQ, and the City of Portland Code for effluent discharges into the Publicly Owned Treatment Works (POTW).

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>04/29/1998</u>
<i>Additional Information Requested</i>	<u>11/04/1998</u>
<i>Additional Information Received</i>	<u>04/27/1999</u>
<i>Application Substantially Complete</i>	<u>06/21/1999</u>
<i>Construction Started</i>	<u>04/01/1995</u>
<i>Construction Completed</i>	<u>04/30/1996</u>
<i>Facility Placed into Operation</i>	<u>04/30/1996</u>

Facility Cost

Facility Cost	\$ 610,252
Ineligible Costs	
Trench Drains and Floor Drains	\$ - 117,463
Removed by applicant during review	- 87,544
Eligible Facility Cost	<u>405,245</u>

Copies of invoices and canceled checks were provided which substantiated the cost of the total project (\$10,992,810) and which included the cost of this facility. A letter from the general contractor was provided with the original application stating that the total cost of the claimed facility is \$610,252. During the review process, an itemized breakdown of the cost was provided; at that time, the total cost of the claimed facility was reduced to \$522,708. **Coopers and Lybrand L.L.P.** performed an accounting review on behalf of Widmer Brewery. **Maggie Vandehey** performed the accounting review on behalf of the Department.

Facility Cost Allocable to Pollution Control

Since the facility cost exceeds \$50,000, according to ORS.190 (1) the following factors were used to determine the percentage of the facility cost allocable to pollution control.

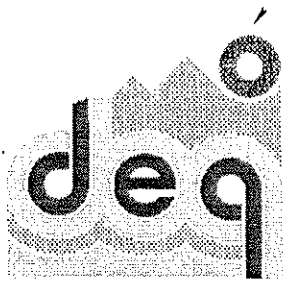
Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	An anaerobic/aerobic wastewater treatment system was considered but the cost was too high.
ORS 468.190(1)(d) Savings or Increase in Costs	Operating costs increase since there was no previous system. They are estimated to be \$9073 per year.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. No DEQ permits have been issued at this facility. City of Portland Permit number: 400-080; Expiration Date: 02/01/2001.

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers
Dennis Cartier, Associate, SJO Consulting Engineers
Maggie Vandehey, DEQ



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	Mitsubishi Silicon America
Application No.	5047
Facility Cost	\$157,664
Percentage Allocable	100%
Useful Life	10 years

Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation and is operating as a supplier of electronic grade silicon wafers. The taxpayer's identification number is 94-1687933 and their address is:

**1351 Tandem Ave. NE
Salem, OR 97303**

Facility Identification

The certificate will identify the facility as:

EPI B2 Acid Exhaust Scrubber

The applicant is the owner of the facility located at:

**1351 Tandem Ave. NE
Salem, OR 97302**

Technical Information

The facility consists of an acid exhaust scrubber that treats the chemical exhaust from the silicon epitaxial process (EPI). The Harrington scrubber is a model ECH 78-5LB designed to supply 26,000 cfm at a static pressure of 1.5 inches w.c. and recirculate 280 gpm. It operates in tandem with an HPCA 4025 CCW 40 Hp fan.

The scrubber treats and removes 95% of the harmful acidic fumes associated with the EPI process. Scrubbers are considered best available technology for removing particulate from acid exhaust.

Eligibility

ORS 468.155 The **principal purpose** of this **new equipment and installation** is to prevent,
(1)(a) control or reduce a substantial quantity of air pollution.

ORS 468.155 The disposal or elimination of or redesign to eliminate air contamination sources
(1)(b)(B) and the use of air cleaning devices as defined in ORS 468A.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	08/03/1998
<i>Additional Information Requested</i>	10/16/1998
<i>Additional Information Received</i>	10/20/1998
<i>Application Substantially Complete</i>	11/6/1998
<i>Construction Started</i>	07/05/1996
<i>Construction Completed</i>	07/12/1996
<i>Facility Placed into Operation</i>	08/01/1996

Facility Cost

Facility Cost	\$ 157,664
Ineligible Costs	\$ - 0
Eligible Facility Cost	\$ 157,664

Invoices or canceled checks were not provided to substantiate the cost of the facility. The facility cost was greater than \$50,000 but less than \$500,000; therefore, **Symonds, Evans & Larson, P.C.** performed an accounting review in accordance with Department guidelines but on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

Since the facility cost exceeds \$50,000, according to ORS.190 (1) the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states their facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility: Stormwater 1200L, issued 3/93; ACDP D-24-4437, issued 5/96

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Dave Kauth, A-DEQ
Maggie Vandehey, DEQ



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	Mitsubishi Silicon America
Application No.	5048
Facility Cost	\$517,957
Percentage Allocable	100%
Useful Life	10 years

Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a **supplier of electronic grade silicon wafers.**

The applicant's taxpayer identification number is 94-1687933 and their address is:

**1351 Tandem Ave. N.E.
Salem, OR 97303**

Facility Identification

The certificate will identify the facility as:

An Acid Waste Neutralization (AWN) System

The applicant is the owner of the facility located at:

**1351 Tandem Ave. N.E.
Salem, OR 97303**

Technical Information

The B2-AWN system is used to treat and neutralize liquid chemical wastes produced in the manufacturing plant. The chemicals treated include hydrofluoric acid, hydrochloric acid, nitric acid, ammonium hydroxide and hydrogen peroxide. Components of the pollution control system include:

- Holding tanks that hold process fluids for treatment
 - waste water accumulation tank
 - demineralized water reclaim tank
 - concentrated waste acid tank
- Wastewater treatment tanks
 - primary mixing tank,
 - secondary mixing tank, and
 - tertiary mixing tank;
- Pumps and piping used to connect the treatment tanks and electrical components associated with the treatment system.

Eligibility

- 1997 ORS The **principal purpose** of this **new installation of equipment** is to control and
 468.155 (1)(B) reduce a substantial quantity of water pollution.
 1997 ORS The disposal or elimination of or redesign to **eliminate industrial waste** and the
 468.155 (1)(b)(A) use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within
 the timing requirements of ORS
 468.165 (6).

<i>Application Received</i>	08/03/1998
<i>Requested Additional Information</i>	12/22/1998
<i>Received Additional Information</i>	03/18/1999
<i>Site Visit</i>	04/08/1999
<i>Received Additional Information</i>	06/11/1999
<i>Application Substantially Complete</i>	06/22/1999
<i>Construction Started</i>	12/13/1995
<i>Construction Completed</i>	07/01/1996
<i>Facility Placed into Operation</i>	08/01/1996

Facility Cost

Claimed Facility Cost	\$ 524,707
Ineligible Costs	
Sampling Kit	- 5,090
NaOH Metering Pump for OTE Scrubber	- 1,660
Eligible Facility Cost	<u>\$ 517,957</u>

The applicant claimed a wastewater sampler assembly that is not eligible because is not a pollution control device or equipment used for water cleaning as defined in ORS 468B.005. The applicant claimed the cost of adding a NaOH metering pump for their OTE Scrubber which is not an allowable cost because it is not part of the AWN system.

Symonds, Evans & Larson, P.C., CPA performed an accounting review on behalf of Mitsubishi Silicon America stating that vendor invoices, subcontractor billings or contracts substantiated approximately 89% of the claimed facility costs and copies of the applicant's checks substantiated 100% of the claimed facility costs. The facility cost exceeds \$500,000; therefore, **Maggie Vandehey** performed an accounting review on behalf of the Department. Copies of invoices, canceled checks and contractor job cost ledger sheets substantiated 87% of the claimed facility cost.

Facility Cost Allocable to Pollution Control

Since the facility cost exceeds \$50,000, According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility:

Storm Water 1200L, issued 3/93

Air Contaminant Discharge Permit, D-24-4437 issued 5/96

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers
Dennis Cartier, Associate, SJO Consulting Engineers
Maggie Vandehey, DEQ



Tax Credit Review Report

EQC 9909

Pollution Control Facility Tax Credit: Water Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a provider of electrical services. The applicant's taxpayer identification number is 93-0256820 and their address is:

**121 SW Salmon Street
Portland, OR 97204**

Director's
Recommendation: **APPROVE**

Applicant **Portland General Electric Company**
Application No. **5065**
Facility Cost **\$70,855**
Percentage Allocable **100%**
Useful Life **10 years**

Facility Identification

The certificate will identify the facility as:

**Secondary oil spill containment system
consisting of a geomembrane liner, vault,
associated fittings and drainage piping system.**

The applicant is the owner of the facility located at:

**Pleasant Valley Substation
8520 SE 172nd Avenue
Boring, OR 97009**

Technical Information

The secondary oil spill containment system for the transformer substation consists of a geomembrane-lined pit, vault and drainage piping system. The transformer area is graded such that the drainage is collected by the collection piping system and flows into the vault. The system allows passage of water while stopping the flow of oil in the event of oil spill. The drainage discharges to a nearby ditch and eventually to the Kelley Creek. The system allows adequate time for a cleanup crew to be dispatched to the site and remove the spilled oil.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of the facility is to control a substantial quantity of water pollution.

ORS 468.155 (1)(b)(A) The water pollution eliminates industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The Department requested validation that the application was filed within the timing requirements of ORS 468.165(6). The applicant provided additional validation that the construction completed date was within the two years of substantial completion.

Application Received

<i>Receipt No. 85983</i>	09/04/98
<i>Application Substantially Complete</i>	6/18/99
<i>Construction Started</i>	07/29/96
<i>Construction Completed</i>	09/04/96
<i>Facility Placed into Operation</i>	12/06/96

Facility Cost

Facility Cost	\$70,855
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	\$70,855

Pricewaterhouse Coopers LLP provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

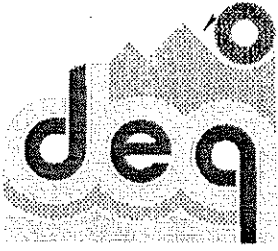
<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	There is no gross revenue associated with this facility and therefore no return on investment.
ORS 468.190(1)(c) Alternative Methods	Oil vault and sand filter system were considered but were rejected because of cost and maintenance.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase of costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes.

Reviewers: R. C. Dulay
Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Portland General Electric Company**
Application No. **5090**
Facility Cost **\$23,090**
Percentage Allocable **100%**
Useful Life **10 years**

**Pollution Control Facility: Water
Final Certification**
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as distribution substation for electric power. The applicant's taxpayer identification number is 93-0256820. The applicant's address is:

**121 SW Salmon Street
Portland, OR 97204**

Facility Identification

The certificate will identify the facility as:

Concrete piping and oil/water separator

The applicant is the owner of the facility located at:

**Hillsboro Storeroom & Pole Yard
301 SW Washington St.
Hillsboro, OR**

Technical Information

The claimed facility is an oil spill containment system consisting of oil/water separator and associated drainage piping system. The site is graded such that the oil/water separator will collect drainage. Water is allowed to flow while stopping the flow of oil. The drainage is discharged to a nearby storm drain and eventually discharges to McKay Creek.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **installation** is to prevent a substantial quantity of water pollution.
- ORS 468.155 (1)(b)(A) The prevention is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	10/06/1998
<i>Application Substantially Complete</i>	8/11/1999
<i>Construction Started</i>	10/10/1996
<i>Construction Completed</i>	12/20/1996
<i>Facility Placed into Operation</i>	12/20/1996

Facility Cost

Facility Cost	\$23,090
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	\$23,090

Invoices substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage time the facility is used for pollution control. The percentage of time the facility is used for pollution control and therefore the percentage allocable to pollution control is 100% .

Compliance

The facility is in compliance with Department rules and statutes.

Reviewers: RCDulay
Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	Praegitzer Industries, Inc.
Application No.	5091
Facility Cost	\$48,740
Percentage Allocable	100%
Useful Life	10 years

Pollution Control Facility: Hazardous Waste Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as manufacturer of complex rigid multilayer printed circuit boards. The applicant's taxpayer identification number is 93-0790158 and their address is:

**Dallas PCB Fabrication Division
1270 SE Monmouth Cutoff Road
Dallas, OR 97338**

Facility Identification

The certificate will identify the facility as:

Hazardous Waste Storage and Containment System

The applicant is the owner of the facility located at:

**1270 SE Monmouth Cutoff Road
Dallas, OR 97338**

Technical Information

The claimed facility consists of two, 5000 gallon, high-density polyethylene storage tanks equipped with level controls and a concrete secondary containment system. They are designed for safe storage and containment of spent ammonium chloride etchant solution.

The polyethylene tanks are used to store spent etchant (hazardous waste) until the chemical vendor removes it free of charge.

Eligibility

- ORS 468.155 (1)(a) The **principal purpose** of this **concrete secondary containment structure** is to control a substantial quantity of hazardous waste if the tank were to fail. The secondary containment requirement is imposed by EPA's RCRA program as found in 40 CFR 265.193.
- ORS 468.155 (1)(a) The **sole purpose** of this **new tank installation** is to control a substantial quantity of hazardous waste. The secondary containment provides protection of spills to the environment and the tank level controls are used to prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>10/05/98</u>
<i>Additional Information Requested</i>	<u>12/10/98</u>
<i>Additional Information Received</i>	<u>5/21/99</u>
<i>Application Substantially Complete</i>	<u>6/18/99</u>
<i>Construction Started</i>	<u>08/1996</u>
<i>Construction Completed</i>	<u>11/1996</u>
<i>Facility Placed into Operation</i>	<u>11/1996</u>

Facility Cost

Claimed Facility Cost	<u>\$ 48,740</u>
Eligible Facility Cost	<u>\$ 48,740</u>

Copies of invoices were provided which substantiated the cost of the facility. **The Emberland Company, P.C.** provided the certified public accountant's statement on behalf of the applicant.

Facility Cost Allocable to Pollution Control

Since the facility cost does not exceed \$50,000, according to ORS.190 (3) the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility:

- RCRA Gen., #ORD 049376189 issued in 1981,
- Air Contaminant Discharge Permit 27-0170 issued in 1996,
- Stormwater #1200-Z, file #100630 22H-ASH 71 issued Nov., 1997.

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Dennis Cartier, Associate, SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ



Director's
Recommendation: **APPROVE**

Applicant **Denton Plastics Inc.**
Application No. **5111**
Facility Cost **\$32,000**
Percentage Allocable **100%**
Useful Life **5 years**

Tax Credit Review Report

EQC 9909

Reclaimed Plastic Products Final Certification

ORS 468.451 -- 468.491
OAR 340-017-0010 -- 340-017-0055

Applicant Identification

The applicant is a partnership leasing equipment for **recycling, repressor & manufacturer of post consumer & industrial plastics**. The applicant's taxpayer identification number is 93-0852298 and their address is:

**4427 NE 158th
Portland, Oregon 97230**

Facility Identification

The certificate will identify the facility as:

65 HP Herbolt PU500 pulverizer

The applicant is the owner of the facility located at:

**4427 NE 158th
Portland, Oregon**

Technical Information

This equipment, a pulverizer, is used to process scrap plastic reducing the size of large plastic objects and plastic molding machine purgings. The processed plastic is then granulated and is eventually remelted and molded into reclaimed plastic pellets.

Eligibility

ORS 468.461 (1) Any person may apply to the EQC for certification of an investment made to allow the person to collect, transport or process reclaimed plastic or to manufacture a reclaimed plastic product.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.461(6).

<i>Preliminary Application Received</i>	10/28/1998
<i>Preliminary approval granted</i>	10/28/1998
<i>Date of investment</i>	12/18/1998
<i>Final application received</i>	06/22/1999
<i>Application substantially complete</i>	08/20/1999

Facility Cost

Facility Cost	\$32,000
Salvage Value	§
Government Grants	§
Other Tax Credits	§
Ineligible Costs	§
Eligible Facility Cost	<hr/> \$32,000

Pursuant to OAR 340-017-0030 (1)(a), a lease agreement substantiated the cost of the facility. The facility cost does not exceed \$50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

Pursuant to ORS 468.486, the following factors were used to determine the percentage of the investment allocable to the collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic product.

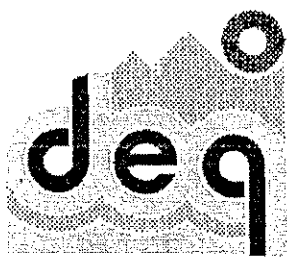
<u>Factor</u>	<u>Applied to This Facility</u>
OAR 340-017-0030 (2)(a) Extent Used to convert reclaimed plastic into a salable or usable commodity.	The equipment is used 100% of the time to for processing reclaimed plastic into a salable or useable commodity.
OAR 340-017-0030 (2)(b) The alternative methods, equipment and costs for achieving the same objective;	No alternative methods were considered.
OAR 340-017-0030 (2)(c) Other relevant factors used to establish portion of the cost allocable to collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic products.	No other factors were considered relevant.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility:

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Portland General Electric Company**
Application No. **5125**
Facility Cost **\$242,117**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility Tax Credit: Water Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a provider of electrical services. The applicant's taxpayer identification number is 93-0256820. The applicant's address is:

**121 SW Salmon Street
Portland, OR 97204**

Facility Identification

The certificate will identify the facility as:

Secondary oil spill containment system consisting of a geomembrane lined pit, vault, associated fittings and drainage piping system.

The applicant is the owner of the facility located at:

**McLoughlin Substation
Maple Lane
Oregon City, Oregon**

Technical Information

The secondary oil spill containment system for the transformer substation consists of a geomembrane-lined pit, vault and drainage piping system. The transformer area is graded such that the drainage is collected by the collection piping system and flows into the lined pit and vault. The system allows passage of water while stopping the flow of oil in the event of oil spill. The drainage discharges to a nearby ditch and eventually to the Abernathy Creek. The system allows adequate time for a cleanup crew to be dispatched to the site and remove the spilled oil.

Eligibility

- ORS 468.155 The **sole purpose** of the **new installation** is to control a substantial quantity of
(1)(a) water pollution.
- ORS 468.155 The **control** is accomplished with the use of treatment works for industrial waste
(1)(b)(A) as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>11/30/98</u>
<i>Application Substantially Complete</i>	<u>7/5/99</u>
<i>Construction Started</i>	<u>2/11/97</u>
<i>Construction Completed</i>	<u>6/19/97</u>
<i>Facility Placed into Operation</i>	<u>6/19/97</u>

Facility Cost

Facility Cost	\$242,117
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Insignificant Contribution (ORS 468.155(2)(d))	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	<u>\$242,117</u>

The facility cost was greater than \$50,000 but less than \$500,000, therefore, Pricewaterhouse Coopers LLP provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

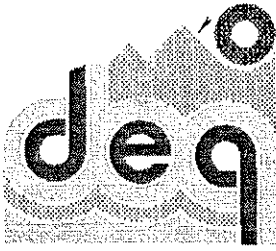
<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	There is no gross revenue associated with this facility and therefore no return on investment.
ORS 468.190(1)(c) Alternative Methods	Oil vault and sand filter system were considered but were rejected because of cost and maintenance.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase of costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes.

Reviewers: Maggie Vandehey
R. C. Dulay



Tax Credit Review Report

EQC 9909

Pollution Control Facility: Water

Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Director's
Recommendation: **APPROVE**

Applicant	Portland General Electric Company
Application No.	5126
Facility Cost	\$44,045
Percentage Allocable	100%
Useful Life	10 years

Applicant Identification

The applicant is a C corporation operating as distribution substation for electric power. Their taxpayer identification number is 93-0256820 and their address is:

**121 SW Salmon Street
Portland, OR 97204**

Facility Identification

The certificate will identify the facility as:

a lined oil spill containment system

The applicant is the owner of the facility located at:

**8800 Grande Ronde Road
Willamina, OR 97396**

Technical Information

The claimed facility is an oil spill containment system consisting of a geotextile liner, oil/water separator and associated drainage piping system. The site is graded such that the oil/water separator will collect drainage. Water is allowed to flow while stopping the flow of oil. The drainage is discharged to the south fork of the Yamhill River. The containment system allows enough time for a crew to be dispatched to the site and do cleanup of the spill.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **installation** is to prevent a substantial quantity of water pollution.
- ORS 468.155 (1)(b)(A) The prevention is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	12//03/1998
<i>Application Substantially Complete</i>	
<i>Construction Started</i>	07/25/1996
<i>Construction Completed</i>	12/04/1996
<i>Facility Placed into Operation</i>	12/04/1996

Facility Cost

Facility Cost	\$44,045
Salvage Value	
Government Grants	
Other Tax Credits	
Ineligible Costs	
Eligible Facility Cost	\$44,045

The facility cost does not exceed \$50,000. The applicant provided invoices that substantiate the cost of the facility.

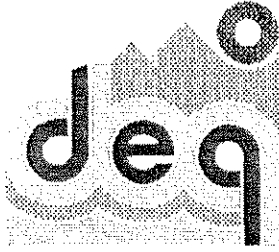
Facility Cost Allocable to Pollution Control

According to ORS 468.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage time the facility is used for pollution control. The percentage of time the facility is used for pollution control and therefore the percentage allocable to pollution control is 100% .

Compliance

The facility is in compliance with Department rules and statutes.

Reviewers: RCDulay
Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Merix Corporation**
Application No. **5127**
Facility Cost **\$444,044**
Percentage Allocable **100%**
Useful Life **5 years**

Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation who manufactures electronic interconnect products. Their taxpayer identification number is 93-1135197 and their address is:

**1521 Poplar Lane
PO Box 3000
Forest Grove, OR 97116**

Facility Identification

The certificate will identify the facility as:

A water recycling system consisting of activated carbon absorption columns, cation exchange columns and anion exchange columns to remove non-carbon organics, metallic ions, and negatively charged ions, storage tanks, associated electrical and plumbing system.

The applicant is the owner of the facility located at:

**1521 Poplar Lane
Forest Grove, OR 97116**

Technical Information

The claimed facility, water recycling system (WRS) is to reduce the quantity of rinse water generated from the preclean lines, black oxide line, copper, nickel, tin, and gold plating lines. Rinse water from the manufacturing processes is collected in the rinse water feed tank. It is pumped to 2 activated carbon adsorption columns where organics are removed. Then the water is filtered and pumped to 2 cation and 2 anion exchange columns. At this point the metal ions are removed. The water is then treated with hydrochloric acid and/or sodium hydroxide for pH adjustment and recycled as fresh rinse water for the manufacturing processes.

The WRS recycles about 60 gallons per minute or 29 million gallons per year of rinse water to the manufacturing processes and thus eliminates pretreatment and discharge of wastewater to the Unified Sewerage Agency sewer system.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **new installation** is to reduce a substantial quantity of water pollution.
- ORS 468.155 (1)(b)(A) The reduction is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	12/04/1998
<i>Application Substantially Complete</i>	6/29/1999
<i>Construction Started</i>	03/01/1998
<i>Construction Completed</i>	10/01/1998
<i>Facility Placed into Operation</i>	10/01/1998

Facility Cost

Facility Cost	\$444,044
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Eligible Facility Cost	\$444,044

The facility cost was greater than \$50,000 but less than \$500,000. Invoices and canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	The claimed facility recycles wastewater as fresh rinse water for the manufacturing processes.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 5 years. There is a negative average annual cash flow of \$5,151.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or	The water recycling system eliminated the use of 29

Increase in Costs

million gallons per year of fresh water for rinsing, pretreatment of the resulting wastewater and discharge to the USA sewer system. Annual cost savings are as follows:

1. Cost to discharge: wastewater to USA	\$ 68,190
2. Deionized water: generation cost	\$ 38,046
3. Wastewater treatment:	<u>\$ 78,754</u>
Total savings	\$184,990

There is a one time USA permit modification cost savings of \$132,200

ORS 468.190(1)(e) Other Relevant
Factors

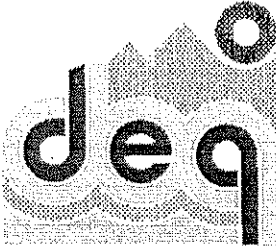
Annual operating cost: \$216,582
No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes.

Reviewers: RCDulay
Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Coburg Mini Storage
Richard & Colleen Witzel**

Application No. **5147**
Facility Cost **\$2,980.00**
Percentage Allocable **100%**
Useful Life **7 years**

Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a Sole Proprietor**
Business: **a mini storage facility**
Taxpayer ID: **93-1165910**

The applicant's address is:

**90115 Lakeview Dr.
Eugene, OR 97402**

Facility Identification

The certificate will identify the facility as:

Six oil/water separators.

The applicant is the owner of the facility located at:

**32930 Roberts Court
Eugene, OR 97408**

Technical Information

The applicant claimed the retrofit of six catch basins to accept filtration baskets containing oil/water separators. The filters remove vehicle oils from storm water runoff. The applicant's storm water system now consists of six catch basins with oil/water separators and a dry well. The catch basins and the dry well were installed in 1993 but the applicant did not claim them for tax credit purposes.

Eligibility

- ORS 468.155 (1)(b) The **sole purpose** of this **new installation** is to reduce a substantial quantity of water pollution.
- ORS 468.155 (1)(b)(A) The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
- OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>1/25/99</u>
<i>Application Substantially Complete</i>	<u>6/30/99</u>
<i>Construction Started</i>	<u>4/27/98</u>
<i>Construction Completed</i>	<u>4/27/98</u>
<i>Facility Placed into Operation</i>	<u>4/27/98</u>

Facility Cost

Facility Cost	\$2,980.00
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Eligible Facility Cost	\$2,980.00

The facility cost does not exceed \$50,000. One invoice substantiated the cost of the facility.

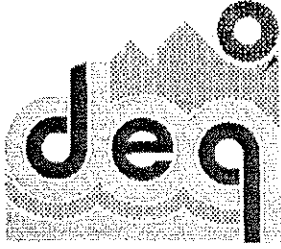
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewer: MaggieVandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **PRELIMINARY APPROVAL**

Applicant **Don G. Averill Trucking, Inc.**
Application No. **5148**
Facility Cost **\$6,000**
Percentage Allocable **100%**
Useful Life **7 years**

Pollution Control Facility: Water Preliminary Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an S Corporation operating a **trucking business**. The applicant's taxpayer identification number is 91-1796397 and their address is:

**P.O. Box 413
Tillamook, OR 97141**

Facility Identification

The certificate will identify the facility as:

Wash Water Recycling System

The applicant is the owner of the facility located at:

**1805 Werner Road
Tillamook, OR 97141**

Technical Information

The applicant plans to install a water pollution control facility consisting of a Karcher model ASA-600 water filtration system, a covered wash pad to collect the wash water, an equipment storage room to house the above ground filtration equipment, and electrical and water connections required for operation of the system.

The facility will be used to capture, filter, and recycle water used for hot water pressure washing, steam cleaning, and vehicle cleaning with soap. The Karcher ASA-600 filtration system is a closed loop, zero-discharge recycling system resulting in no water being discharged to the ground.

This type of filtration system has been approved for tax credit certification in the past. The final application should provide detailed information regarding the building used to house the equipment and the estimated quantity of water that would otherwise be discharged to the ground.

Eligibility

ORS 468.155 The sole purpose of this new installation of equipment is to prevent a substantial (1)(a)(B) quantity of water pollution.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>1/27/1999</u>
<i>Additional Information Requested</i>	<u>6/23/1999</u>
<i>Additional Information Received</i>	
<i>Application Substantially Complete</i>	<u>8/16/1999</u>

Facility Cost

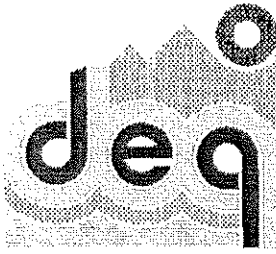
Estimated Facility Cost \$ 6,000

Facility Cost Allocable to Pollution Control

Preliminary certification does not certify the percentage of the facility cost allocable to pollution control. The factors below were not considered as is required for final certification of a facility cost that exceeds \$50,000.

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	
ORS 468.190(1)(b) Return on Investment	
ORS 468.190(1)(c) Alternative Methods	
ORS 468.190(1)(d) Savings or Increase in Costs	

Reviewers: Lois L. Payne, P.E. SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **JR Simplot Company**
Application No. **5156**
Facility Cost **\$757,749**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **C corporation**

Business: **production of finished potato
products**

Taxpayer ID: **82-0196611**

The applicant's address is:

**PO Box 27
Boise, ID 83707**

Facility Identification

The certificate will identify the facility as:

**A wet ESP, Model # BTP10*15, Serial No.
PWI-1696; Transformer/Rectifier Set,
Model No. 4006, Serial No. 10218 and
associated ductwork**

The applicant is the owner of the facility located
at:

**79319 Simplot Rd
Hermiston, OR 97838**

Technical Information

The applicant's Hermiston plant has five fryers operating on four process lines. The fryers are hooded and their exhausts are vented to fans located on the roof and then combined into a single exhaust stream. The combined fryer exhaust is ducted through a condensing heat exchanger prior to the Wet ESP. The eligible components are:

1. Wet ESP, manufactured by Beltran Associates, Inc.
2. Above-the-roof fryer exhaust ductwork fabricated by Fite Sheet Metal Co. and NW Metal Fabricators.

The Wet ESP controls particulate emissions to below 0.02 grains/dry standard cubic foot, reduced opacity to an average of 2.5%, PM₁₀ emission decrease to .076 lb/ton, and VOC emissions decreased to .287 lb/ton.

Eligibility

- ORS 468.155 (1)(a) The **principal purpose** of this **new installation** is to prevent, control or reduce a substantial quantity of air pollution as required by DEQ. The facility is located in an area that is designated attainment for ozone and undesignated for PM₁₀.
- ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6). Since the Application Received date is barely within the two-years of the Construction Completed date, staff asked for the date the asset was placed on the books for depreciation purposes.

<i>Application Received</i>	<u>02/11/1999</u>
<i>Application Substantially Complete</i>	<u>06/09/1999</u>
<i>Construction Started</i>	<u>08/01/1996</u>
<i>Construction Completed</i>	<u>02/28/1997</u>
<i>Put on Books for Depreciation</i>	<u>04/01/1997</u>
<i>Facility Placed into Operation</i>	<u>03/01/1997</u>

Facility Cost

Facility Cost	\$857,040
Non-Allowable: Fryer Exhaust Fan	(99,291)
Eligible Facility Cost	<u>\$757,749</u>

The fryer exhaust fans do not meet the definition of a pollution control facility. Its sole and exclusive purpose is not pollution control since the exhaust would have to be vented to the exterior of the building with or without the pollution control. The exhaust fans do not meet the definition of an air cleaning device as required by statute.

An "air-cleaning device" means any method, process or equipment that removes, reduces or renders less noxious air contaminants prior to their discharge in the atmosphere.

The facility cost exceeds \$500,000. Maggie Vandehey performed the accounting review on behalf of the Department. Invoices and cancelled checks substantiated 100% of the facility cost claimed.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	The Wet ESP controls oil mist from the fryer exhausts. The wet effluent is pumped to the plant wastewater treatment system where oil is recovered. The recovered oil is marginally salable at about \$91 per ton. (Sixty tons were recovered in 1997.)
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 12 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Alternative methods reviewed were Wet Scrubbers and Thermal Oxidation. The Wet ESP was the most cost-effective method and a commonly accepted control technology.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders. The applicant's Air Contaminant Discharge Permit number is 30-0078, expiring on 3/1/2001.

Reviewers: Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **United Disposal Service Inc..**
Application No. **5165**
Facility Cost **\$15,672**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycle facility. Their taxpayer identification number is 93-0625022. The applicant's address is:

**2215 N Front Street
Woodburn, OR 97071**

Facility Identification

The certificate will identify the facility as:

**Four 48.9-yd SC style drop boxes, serial #
10684 thru 10685 and 10690 thru 10691.**

The applicant is the owner of the facility located at:

**2215 N Front Street
Woodburn, OR 97071**

Technical Information

These drop boxes are used for the collection of recyclable material that is generated from commercial customers. These containers are part of a service-area-wide recycling collection program offered by United Disposal for its commercial collection customers.

Eligibility

- ORS 468.155 (1)(a) The sole **purpose** of this **new equipment** is to prevent, control, or reduce a substantial quantity of solid waste. These drop boxes are painted a different color than similar solid waste collection equipment and are used exclusively for the collection of recyclable material.
- ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165(6).

<i>Application Received</i>	02/22/1999
<i>Application Substantially Complete</i>	
<i>Construction Started</i>	07/30/1997
<i>Construction Completed</i>	08/31/1998
<i>Facility Placed into Operation</i>	09/05/1998

Facility Cost

Facility Cost	\$15,672
Salvage Value	✓
Government Grants	✓
Other Tax Credits	✓
Insignificant Contribution ORS 468.155(2)(d)	✓
Ineligible Costs	✓
Eligible Facility Cost	\$15,672

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed \$50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. There was no calculation of return on investment.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

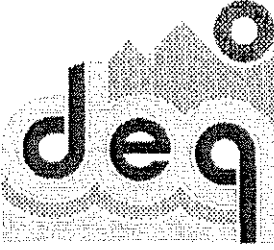
Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

There are no DEQ permits issued to this facility:

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Jackson Oil, Inc.**
Application No. **5168**
Facility Cost **\$31,550.00**
Percentage Allocable **100%**
Useful Life **7 years**

Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a corporation**
Business: **cardlock fueling station**
Taxpayer ID: **93-0657398**

The applicant's address is:

**Canyon City Cardlock
PO Box 280
Canyon City, OR 97820**

Facility Identification

The certificate will identify the facility as:

**Epoxy lining and impressed current cathodic
protection on three underground storage
tanks.**

The applicant is the owner of the facility located
at:

**133 N Washington
Canyon City, OR 97820**

Technical Information

The applicant installed epoxy lining and impressed current cathodic protection on three underground storage tanks.

Eligibility

- ORS 468.155 The **principal purpose** of this improvement is to prevent, control or reduce a
(1)(a) substantial quantity of water pollution.
OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>02/25/1999</u>
<i>Application Substantially Complete</i>	<u>08/09/1999</u>
<i>Construction Started</i>	<u>03/01/1997</u>
<i>Construction Completed</i>	<u>06/01/1997</u>
<i>Facility Placed into Operation</i>	<u>06/01/1997</u>

Facility Cost

Claimed Facility Cost **\$31,550**

Corrosion Protection

Epoxy lining on underground tanks \$16,750

Cathodic protection (impressed current) 7,800

Labor, material, misc. parts 7,000

Eligible Facility Cost **\$31,550**

The facility cost does not exceed \$50,000. An independent accounting review was not required. However, invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Jackson Oil, Inc.**
Application No. **5169**
Facility Cost **\$77,735.00**
Percentage Allocable **100%**
Useful Life **7 years**

Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: a **corporation**
Business: **retail service station**
Taxpayer ID: **93-0657398**

The applicant's address is:

**PO Box 280
Canyon City, OR 97820**

Facility Identification

The certificate will identify the facility as:

Epoxy lining and impressed current cathodic protection on three underground storage tanks, doublewall flexible plastic piping, sumps, and automatic shutoff valves.

The applicant is the owner of DEQ facility ID No. 4772, located at:

**Jackson Mini-Station
132 N Washington
Canyon City, OR 97820**

Technical Information

The applicant upgraded their facility to meet federal requirements.

Eligibility

- ORS 468.155 The **principal purpose** of this **improvement/addition** is to prevent, control or
(1)(a) reduce a substantial quantity of water pollution.
OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>02/25/1999</u>
<i>Application Substantially Complete</i>	<u>08/09/1999</u>
<i>Construction Started</i>	<u>03/01/1997</u>
<i>Construction Completed</i>	<u>06/01/1997</u>
<i>Facility Placed into Operation</i>	<u>06/01/1997</u>

Facility Cost

Claimed Facility Cost **\$78,826.00**

Corrosion Protection

Epoxy lining on underground tanks	\$15,800
Cathodic protection (impressed current)	7,800
Flexible plastic piping – doublewall	4,774

Spill & Overfill Prevention

Sumps	4,748
Automatic shutoff valves	1,533

Labor, material, misc. parts 43,080

Ineligible Costs

Spill containment basins are ineligible because they were claimed on a prior tax credit approved in 1990.	\$1,091
---	---------

Eligible Facility Cost **\$77,735**

The applicant applied for a waiver of the independent accounting review since invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control

Eligible Facility Cost	\$77,735
Less Claimed Corrosion Protection	(4,774)

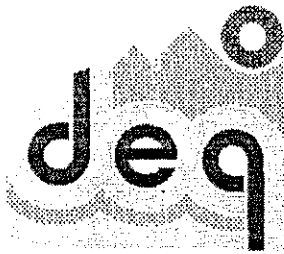
The allocable cost of a corrosion protected piping system is determined by using a formula based on the difference in cost between the protected piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to this application:

<u>System Cost</u>				
Protected system cost	\$22,703	less bare steel cost	\$356	\$4,418
			Total Reduced Cost	\$77,379
			Total Reduced Cost ÷ Eligible Facility Cost = the percentage of the facility cost allocable to pollution control	100%

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 9909

Pollution Control Facility: USTs Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a limited liability company**

Business: **Retail gas station**

Taxpayer ID: **93-1184219**

The applicant's address is:

**Miles Investment, L.L.C.
2175 Hwy 101 North
Florence, OR 97439**

Technical Information

The applicant installed two doublewall fiberglass clad steel underground storage tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, oil/water separator, monitoring wells, automatic shutoff valves and Stage II vapor recovery.

Director's
Recommendation: **APPROVE**

Applicant **Miles Investment, L.L.C.**
Application No. **5170**
Facility Cost **\$94,250**
Percentage Allocable **86%**
Useful Life **10 years**

Facility Identification

The certificate will identify the facility as:

Two doublewall fiberglass clad steel underground storage tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, oil/water separator, monitoring wells, automatic shutoff valves and Stage II vapor recovery.

The applicant is the owner of DEQ Facility ID **11618**, located at:

**Miles Springfield Texaco
4095 Main Street
Springfield, OR 97478**

Eligibility

- ORS 468.155 (1)(a) The **principal purpose** of this **new installation and equipment** is to prevent, control or reduce a substantial quantity of air and water pollution.
- OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	02/25/99
<i>Application Substantially Complete</i>	8/2/99
<i>Construction Started</i>	08/01/1996
<i>Construction Completed</i>	03/01/1997
<i>Facility Placed into Operation</i>	03/01/1997

Facility Cost

Claimed Facility Cost **\$110,835**

Corrosion Protection

Epoxy lining on underground tanks	
Cathodic protection (impressed current)	
Fiberglass clad steel tanks – doublewall	\$30,186
Flexible plastic piping – doublewall	4,500

Spill & Overfill Prevention

Spill Containment basins	1,782
Overfill alarm	295
Sumps	3,051
Automatic shutoff valves	326
Oil/Water separator	24,982

Leak Detection

Automatic tank gauge system	6,719
Monitoring wells for leak detection	827
Turbine Leak detectors	711

VOC Reduction

Stage I vapor recovery	
Stage II vapor recovery (piping only)	14,220

Labor, material, misc. parts

23,236

\$110,835

Ineligible Costs

(672)

Ten percent of the Tank Gauge System is ineligible since the device can serve other purposes, for example, inventory control.

Eligible Facility Cost \$110,163

The applicant applied for a waiver of the independent accounting review since invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	
	Eligible Facility Cost \$110,163
	Less Claimed Corrosion Protection (34,686)

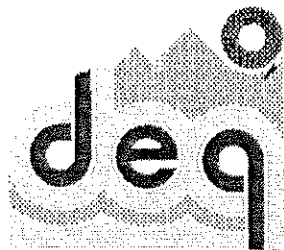
The allocable cost of a corrosion protected tank and piping system is determined by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to this application:

Protected system cost	\$34,686	less bare steel cost	
		\$15,913	18,773
		Total Reduced Cost: \$94,250	
Total Reduced Cost ÷ Eligible Facility Cost			86%
= the percentage of the facility cost allocable to pollution control			

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders. Especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Roger Neuschwander**
Application No. **5173**
Facility Cost **\$5,500**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Field Burning

Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a Sole Proprietor**
Business: **a grass seed farm**
Taxpayer ID: **93-0727909**

The applicant's address is:

**31983 Harris Drive
Harrisburg, OR 97446**

Facility Identification

The certificate will identify the facility as:

A Billion x-fold 21' pulverizer (roller).

The applicant is the **owner** of the facility located at:

**31983 Harris Drive
Harrisburg, OR 97446**

Eligibility

- ORS 468.155 The **principal purpose** of this **new machinery** is to prevent, control or reduce a
(1)(a) substantial quantity of air pollution.
OAR-016-025 Equipment, facilities, and land for gathering, densifying, processing, handling,
(2)(f)(A) storing, transporting and incorporating grass straw or straw based products which
will result in reduction of open field burning.

Timeliness of Application

The application was submitted within
the timing requirements of ORS
468.165 (6).

<i>Application Received</i>	03/03/1999
<i>Application Substantially Complete</i>	4/18/1999
<i>Construction Started</i>	02/10/1999
<i>Construction Completed</i>	02/10/1999
<i>Facility Placed into Operation</i>	07/01/1999

Facility Cost

Facility Cost	\$5,500.00
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Eligible Facility Cost	\$5,500.00

The facility cost does not exceed \$50,000. An independent accounting review was not required. However, invoices or canceled checks substantiated the cost of the facility.

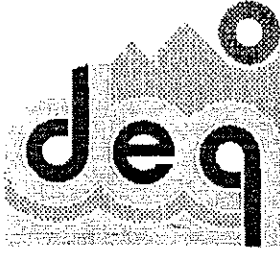
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is 100%.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to facility.

Reviewers: James Britton



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Tydan Farms**
Application No. **5175**
Facility Cost **\$34,042.00**
Percentage Allocable **37%**
Useful Life **7 years**

Pollution Control Facility: Field Burning

Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a C corporation**
Business: **a grass seed farm**
Taxpayer ID: **93-1246351**

The applicant's address is:

**21929 Powerline Road
Harrisburg, OR 97446**

Facility Identification

The certificate will identify the facility as:

**One mower SN RC15 10049 and a John Deere tractor
model 4440 Serial number 4440 HD 40016.**

The applicant is the owner of the facility located
at:

**21929 Powerline Road
Harrisburg, OR 97446**

Technical Information

Prior to 1998, the applicant practiced open field burning as much as possible under the prevailing weather and smoke management limitations. The applicant open field burned 65% to 75% of their 995 acres of grass seed production every year. Beginning in 1998, the applicants decreased the burning rate to between 25% to 30% by utilizing a combination custom baling followed by flail chopping. The tractor and flail have allowed this reduction by providing the means to bale, flail and plow or do a full straw load chop (x3) and plow on fields previously treated by burning.

Eligibility

- ORS 468.155 (1)(a) The **principal purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of air pollution.
- OAR-016-025 (2)(f)(A) Equipment for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in **reduction of open field burning.**

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>3/9/99</u>
<i>Application Substantially Complete</i>	<u>4/7/99</u>
<i>Construction Started</i>	<u>7/1/99</u>
<i>Construction Completed</i>	<u>7/1/99</u>
<i>Facility Placed into Operation</i>	<u>7/1/99</u>

Facility Cost

Facility Cost	\$34,042.00
Non Allowable Costs	\$ -
Eligible Facility Cost	<u>\$34,042.00</u>

The facility cost does not exceed \$50,000. An independent accounting review was not required. However, invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. The established average annual operating hours for tractors is set at 450 hours. To obtain a total percent allocable, the annual operating hours per implement used in reducing acreage open field burned is as follows:

Implement	# of Acres	Implement Capacity	Annual Operating Hours
Flail Chopper	565	6 ac/hr	94
Total			94

The total annual operating hours of 94 divided by the average annual operating hours of 450 produces a percentage allocable of 21%.

Equipment	Claimed Cost	Percent Allocable	Cost Allocable
Flail Chopper	\$7,000	100	\$7,000
JD 4440 Tractor	\$27,042	21	\$5,679
Total	\$34,042	37	\$12,679

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders. No DEQ permits have been issued to the facility.

Reviewers: James Britton



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **B K & S Corporation**
Application No. **5177**
Facility Cost **\$1,980.00**
Percentage Allocable **100%**
Useful Life **3 years**

**Pollution Control Facility: Air
Final Certification**
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **an S corporation**
Business: **an oil changing facility**
Taxpayer ID: **93-0943086**

The applicant's address is:

**2405 SE Burnside
Gresham, OR 97030-3537**

Facility Identification

The certificate will identify the facility as:

**An automatic refrigerant recovery system
that recycles, recharges and flushes the
system. (Fluoromizer Model 4000-134a; serial
F98036502)**

The applicant is the owner of the facility located
at:

**2405 SE Burnside
Gresham, OR 97030-3537**

Technical Information

The equipment controls air contaminants by recycling automobile air conditioner refrigerants instead of discharging to the atmosphere. The UL Listed recovery and recycling equipment is a certified single pass unit. The machine has recharge capabilities.

Recycled refrigerant exceeds Society of Automotive Engineers (SAE) J2210 and J1991 purity standards.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new equipment** is to prevent a substantial quantity of air pollution. It complies with the DEQ requirements of OAR 340-022-0405 to OAR 340-022-0415, Control Ozone Depleting Chemicals, to

recycle air conditioning refrigerants. This equipment captures and recycles contaminants that would otherwise be released to the atmosphere, as defined in ORS 468.275.

ORS 468.155 The disposal or elimination of or redesign to eliminate air contamination sources
(1)(b)(B) and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	03/10/1999
<i>Application Substantially Complete</i>	06/21/1999
<i>Construction Started</i>	08/01/1998
<i>Construction Completed</i>	08/01/1998
<i>Facility Placed into Operation</i>	08/01/1998

Facility Cost

Facility Cost	\$2,595.00
Salvage Value	
Freight	\$85.00
Ineligible Cost	
Recharge Capabilities – Standard Deduction	(700.00)
Eligible Facility Cost	\$1,980.00

The facility cost does not exceed \$50,000. An independent accounting review was not required. However, invoices or canceled checks substantiated the cost of the facility.

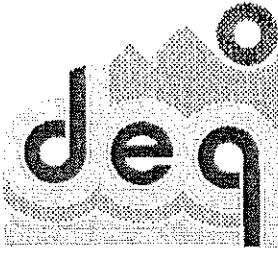
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Capitol Recycling & Disposal, Inc.**
Application No. **5184**
Facility Cost **\$10,064**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. The taxpayer's identification number 93-1197641. The applicant's address is:

**1890 16th Street S.E.
Salem, OR 97302**

Facility Identification

The certificate will identify the facility as:

Two 48.9 yd. SC style drop boxes

The applicant is the owner of the facility located at:

**1890 16th Street S.E.
Salem, OR 97302**

Technical Information

These drop boxes are used for the collection of recyclable materials from commercial customers.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. These drop boxes are used solely for the collection of recyclable material.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>03/29/1999</u>
<i>Application Substantially Complete</i>	<u>04/28/1999</u>
<i>Construction Started</i>	<u>05/14/1997</u>
<i>Construction Completed</i>	<u>06/01/1997</u>
<i>Facility Placed into Operation</i>	<u>09/05/1997</u>

Facility Cost

Facility Cost	\$10,064
Ineligible Costs	<u>0</u>
Eligible Facility Cost	\$10,064

The facility cost does not exceed \$50,000. Therefore, an independent accounting review was not required. Invoices and cancelled checks substantiated the cost of the facility.

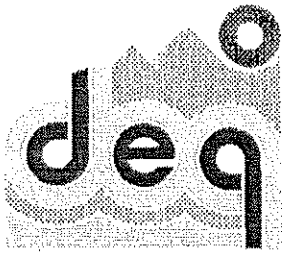
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Robert L. Secolo**
Application No. **5186**
Facility Cost **\$372,786**
Percentage Allocable **96%**
Useful Life **10 years**

Pollution Control Facility: USTs Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a limited liability company**

Business: **Retail gas station**

Taxpayer ID: **91-1840134**

The applicant's address is:

**Secolo Land Development LLC
P O Box 82464
Portland, OR 97282**

Facility Identification

The certificate will identify the facility as:

**Upgrade facility to meet federal
guidelines.**

The applicant is the owner of **DEQ Facility ID
11761**, located at:

**Tanasbourne Shell
2115 NW Town Center Drive
Beaverton, OR 97006**

Technical Information

The applicant installed two doublewall fiberglass/steel underground storage tanks (one tank has two compartments), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, line/turbine leak detectors, sumps, oil/water separator, automatic shutoff valves and Stage II vapor recovery.

Eligibility

- ORS 468.155 The **principal purpose** of this **new installation and equipment** is to prevent,
(1)(a) control or reduce a substantial quantity of air and water pollution.
OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	04/08/1999
<i>Application Substantially Complete</i>	08/12/1999
<i>Construction Started</i>	10/01/1997
<i>Construction Completed</i>	03/18/1998
<i>Facility Placed into Operation</i>	03/18/1998

Facility Cost

Claimed Facility Cost

Corrosion Protection

Steel/Fiberglass tanks – doublewall	\$30,694
Flexible plastic piping – doublewall	7,975

Spill & Overfill Prevention

Spill Containment basins	1,083
Overfill alarm	300
Sumps	4,675
Automatic shutoff valves	892
Oil/Water separator	4,147

Leak Detection

Automatic tank gauge system	9,420
Line/turbine Leak detectors	1,142

VOC Reduction

Stage II vapor recovery	28,768
-------------------------	--------

Labor, material, misc. parts

284,632

\$373,728

Ineligible Costs

Ten percent of the Tank Gauge System is ineligible since the device can serve other purposes, for example, inventory control.	(\$942)
---	---------

Eligible Facility Cost \$372,786

Maggie Vandehey performed the accounting review on behalf of the Department. Invoices and canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

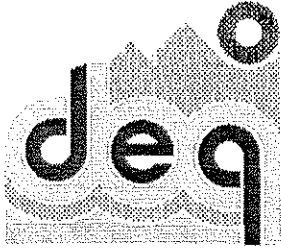
The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control.

<u>Factor</u>	<u>Applied to This Facility</u>		
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.		
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues were associated with this facility.		
ORS 468.190(1)(c) Alternative Methods	Most cost effective alternative chosen		
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.		
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.		
ORS 468.190(1)(e) Other Relevant Factors		Eligible Facility Cost	\$372,786
		Less Claimed Corrosion Protection	(\$38,669)
	The allocable cost of a corrosion-protected tank and piping system is determined by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to this application:		
		Protected system cost \$38,669 less bare steel cost \$16,249	= \$22,420
		Total Reduced Cost	\$356,537
	Total Reduced Cost ÷ Eligible Facility Cost = the percentage of the facility cost allocable to pollution control		96%

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders, especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 6/25/99

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. The taxpayer's identification number 93-0625022. The applicant's address is:

**2215 N Front Street
Woodburn, OR 97071**

Facility Identification

The certificate will identify the facility as:

**One 1999 International Model 4700 LP
truck chassis, Vin 1HTSLAAL5XH614796,
Engine DT466E.**

The applicant is the owner of the facility located at:

**2215 N. Front Street
Woodburn, OR 97071**

Technical Information

This truck will be equipped with collection bins and used for on-route collection of recyclable materials from residential customers:

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. This truck will be used as a residential on-route residential recycling collection truck.
- ORS 468.155 (1)(b)(D) The use of a **material recovery** process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	04/12/1999
<i>Application Substantially Complete</i>	04/28/1999
<i>Construction Started</i>	06/30/1998
<i>Construction Completed</i>	10/13/1998
<i>Facility Placed into Operation</i>	11/01/1998

Facility Cost

Facility Cost	\$46,603
Ineligible Costs	0
Eligible Facility Cost	\$46,603

The facility cost does not exceed \$50,000. Therefore, an independent accounting review was not required. Invoices and cancelled checks substantiated the cost of the facility.

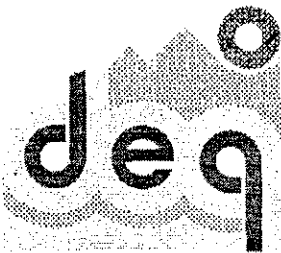
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Capitol Recycling & Disposal, Inc.**
Application No. **5188**
Facility Cost **\$173,298**
Percentage Allocable **100%**
Useful Life **5 years**

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a S corporation operating as a beverage distributor. The taxpayer's identification number 93-0554178. The applicant's address is:

**1890 16th Street S.E.
Salem, Oregon 97302**

Facility Identification

The certificate will identify the facility as:

**1997 Volvo Model WXR42, Serial number
4v4eakpe1vr741301 and one Heil Rapid
Rail Starr system.**

The applicant is the owner of the facility located at:

**1890 16th Street S.E.
Salem, Oregon 97302**

Technical Information

This recycling truck is used for the weekly on-route collection of yard debris from residential customers

Eligibility

- ORS 468.155 The sole purpose of this equipment is to prevent, control or reduce a substantial quantity of solid waste.
(1)(a)
- ORS 468.155 The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.
(1)(b)(D)

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>04/19/1999</u>
<i>Application Substantially Complete</i>	<u>04/28/1999</u>
<i>Construction Started</i>	<u>12/31/1996</u>
<i>Construction Completed</i>	<u>04/11/1997</u>
<i>Facility Placed into Operation</i>	<u>06/01/1997</u>

Facility Cost

Facility Cost	\$173,298
Ineligible Costs	\$ 0
Eligible Facility Cost	\$173,298

The facility cost exceeds \$50,000. Theodore R. Ahre, CPA reviewed the invoices associated with the claimed facility and has certified that the claimed facility cost is accurate and documented and that ineligible expenses have not been included in the claimed cost.

Facility Cost Allocable to Pollution Control

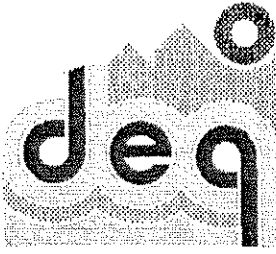
Pursuant to ORS 468.190(1), the following factors were used to determine the percentage of the facility cost allocable to pollution control. Considering the following factors, the percentage allocable to pollution control is 100%.

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	The facility collects recyclable material that is processed into a new product.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 5 years. Based on the applicant's average annual income The return on investment factor is 12.6. The return on investment from Table 1 is 0% and the portion of the investment allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Capitol Recycling & Disposal, Inc.**
Application No. **5189**
Facility Cost **\$6,734**
Percentage Allocable **100%**
Useful Life **5 years**

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. Their taxpayer identification number is 93-1197641. The applicant's address is:

**1890 16th Street S.E.
Salem, OR 97302**

Facility Identification

The certificate will identify the facility as:

**Twenty 2 yard rear load recycling
containers**

The applicant is the owner of the facility located at:

**1890 16th Street S.E.
Salem, OR 97302**

Technical Information

These containers are used for the separation and collection of recyclable materials from residential commercial and industrial on-route recycling collection customers.

Eligibility

- ORS 468.155 The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. These containers are used solely for the collection of recyclable material.
- (1)(a)
- ORS 468.155 The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.
- (1)(b)(D)

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>04/19/1999</u>
<i>Application Substantially Complete</i>	<u>04/28/1999</u>
<i>Construction Started</i>	<u>07/01/1997</u>
<i>Construction Completed</i>	<u>08/26/1997</u>
<i>Facility Placed into Operation</i>	<u>09/01/1997</u>

Facility Cost

Facility Cost	\$6,734
Ineligible Costs	0
Eligible Facility Cost	<u>\$6,734</u>

The facility cost does not exceed \$50,000. Therefore, an independent accounting review was not required. Invoices and cancelled checks substantiated the cost of the facility.

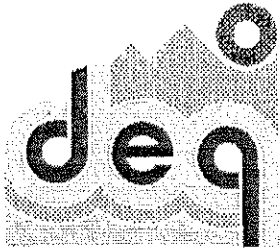
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Wilco Farmers**
Application No. **5190**
Facility Cost **\$286,975**
Percentage Allocable **94%**
Useful Life **10 years**

Pollution Control Facility: USTs Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a cooperative association**

Business: **a retail gas station**

Taxpayer ID: **93-0559325**

The applicant's address is:

**PO Box 258
Mt. Angel, OR 97362**

Facility Identification

The certificate will identify the facility as:

Upgrade to meet EPA requirements.

The applicant is the owner of **DEQ Facility ID 11714**, located at:

**737 McClaine Street
Silverton, OR 97381**

Technical Information

The applicant installed two doublewall steel/fiberglass underground storage tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system overflow alarm, line leak detectors, sumps, oil/water separator and automatic shutoff valves.

Eligibility

ORS 468.155 The **principal purpose** of this **installation** is to prevent, control or reduce a
(1)(a) substantial quantity of air and water pollution.

OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	04/19/1999
<i>Application Substantially Complete</i>	04/20/1999
<i>Construction Started</i>	01/15/1997
<i>Construction Completed</i>	07/01/1997
<i>Facility Placed into Operation</i>	07/03/1997

Facility Cost

Claimed Facility Cost \$

Corrosion Protection

Steel/fiberglass underground tanks – doublewall	\$34,296
Flexible plastic piping – doublewall	7,640

Spill & Overfill Prevention

Spill Containment basins	2,142
Overfill alarm	300
Sumps	6,145
Automatic shutoff valves	792
Oil/Water separator	4,427

Leak Detection

Automatic tank gauge system	11,459
Line Leak detectors	904

Labor, material, misc. parts

	220,016
	\$288,121

Ineligible Costs

Ten percent of the Tank Gauge System is ineligible since the device can serve other purposes, for example, inventory control.	(\$1,146)
---	-----------

Eligible Facility Cost \$286,975

The applicant applied for a waiver of the independent accounting review since invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues were

ORS 468.190(1)(c) Alternative Methods	associated with this facility.	
ORS 468.190(1)(d) Savings or Increase in Costs	No alternative investigated.	
ORS 468.190(1)(e) Other Relevant Factors	No savings or increase in costs.	
ORS 468.190(1)(e) Other Relevant Factors		
	Eligible Facility Cost	\$286,975
	Less Claimed Corrosion Protection	(\$41,936)

The allocable cost of a corrosion-protected tank and piping system is determined by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to this application:

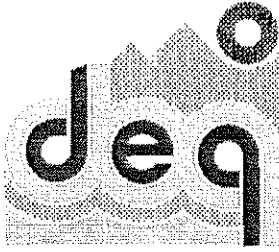
<u>System Cost</u>				
Protected system cost	\$41,936	less bare steel cost	\$17,968	= \$23,968
			Total Reduced Cost	\$269,007

Total Reduced Cost ÷ Eligible Facility Cost = the percentage of the facility cost allocable to pollution control **94%**

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders, especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Sherlock Oil Company**
Application No. **5193**
Facility Cost **\$153,679.00**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: USTs

Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **an S corporation**

Business: **a retail gasoline station**

Taxpayer ID: **93-0784967**

The applicant's address is:

**515 E Broadway
Eugene, OR 97401**

Facility Identification

The certificate will identify the facility as:

**Upgrade to meet EPA regulations for
underground storage tanks.**

The applicant is the owner of **DEQ Facility ID
961** located at:

**West 18th Chevron
1710 West 18th
Eugene, OR 97405**

Technical Information

Doublewall flexible plastic piping for three fiberglass underground storage tanks, automatic tank gauge system, turbine leak detectors, monitoring wells, oil/water separator and Stage I vapor recovery.

Eligibility

ORS 468.155 The **principal purpose** of this **installation** is to prevent, control or reduce a
(1)(a) substantial quantity of air and water pollution.

OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	04/22/1999
<i>Application Substantially Complete</i>	04/22/1999
<i>Construction Started</i>	02/03/1997
<i>Construction Completed</i>	04/23/1997
<i>Facility Placed into Operation</i>	04/23/1997

Facility Cost

Claimed Facility Cost \$

Corrosion Protection

Flexible plastic piping – doublewall \$20,499

Spill & Overfill Prevention

Oil/Water separator 3,930

Leak Detection

Automatic tank gauge system 9,596

Monitoring wells for leak detection 349

Turbine Leak detectors 1,100

VOC Reduction

Stage I vapor recovery 3,119

Labor, material, misc. parts 116,046

\$154,639

Ineligible Costs

Ten percent of the Tank Gauge System is ineligible since the device can serve other purposes, for example, inventory control. (\$960)

Eligible Facility Cost \$153,679

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, **Demers, Sawiki & Associates, Inc.** performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.
ORS 468.190(1)(e) Other Relevant Factors	Eligible Facility Cost \$153,679
	Less Claimed Corrosion Protection (20,499)

The allocable cost of a corrosion-protected tank and piping system is determined by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to this application:

<u>System Cost</u>				
Protected system cost	\$20,499	less bare steel cost	\$525	= \$19,974

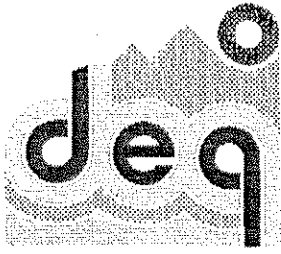
Total Reduced Cost \$153,154

Total Reduced Cost ÷ Eligible Facility Cost = the percentage
of the facility cost allocable to pollution control **100%**

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders, especially Underground Storage Tank requirements under OAR Chapter 340, Division 150.

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Safeway, Inc.**
Application No. **5194**
Facility Cost **\$20,951.00**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: USTs Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a C corporation**

Business: **a distribution center for retail
grocery chain**

Taxpayer ID: **94-3019135**

The applicant's address is:

Tax Division

**5918 Stoneridge Mall Road
Pleasanton, CA 94588-3229**

Facility Identification

The certificate will identify the facility as:

**Spill containment basin, automatic tank
gauge system and overfill alarm.**

The applicant is the owner of **DEQ Facility ID
3749**, located at:

**16800 SE Evelyn Street
Clackamas, OR 97015**

Technical Information

The applicant upgraded their facility to meet EPA requirements.

Eligibility

- ORS 468.155 The **principal purpose** of this **equipment** is to prevent, control or reduce a
(1)(a) substantial quantity of air and water pollution.
- OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

04/22/1999

<i>Application Received</i>	<u>04/23/1999</u>
<i>Application Substantially Complete</i>	<u>03/27/1997</u>
<i>Construction Started</i>	<u>06/10/1997</u>
<i>Construction Completed</i>	<u>06/10/1997</u>
<i>Facility Placed into Operation</i>	<u>06/10/1997</u>

Facility Cost

Claimed Facility Cost **\$20,951**

Spill & Overfill Prevention

Spill Containment basins \$1,798

Overfill alarm 300

Leak Detection

Automatic tank gauge system 12,565

Labor, material, misc. parts 6,288

Eligible Facility Cost \$20,951

The facility cost does not exceed \$50,000. An independent accounting review was not required. However, invoices or canceled checks substantiated the cost of the facility.

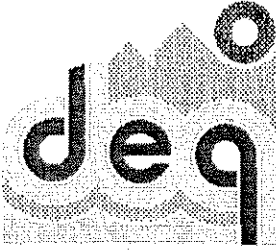
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders, especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Morse Bros., Inc.**
Application No. **5203**
Facility Cost **\$282,897**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a C corporation**
Business: **a hotmix asphalt plant**
Taxpayer ID: **93-0504596**

The applicant's address is:

**32260 Hwy 34
Corvallis, OR 97330**

Facility Identification

The certificate will identify the facility as:

drum system for recycling asphalt

The applicant is the owner of the facility located at:

**32260 Hwy 34
Corvallis, OR 97330**

Technical Information

This CMI PTD-400 s/n triple drum is specially equipped with a side inlet to allow the addition of recycled asphalt into the optimum heat zone of the asphalt mixing-drum. The claimed facility is used for metering recycled material, monitoring, and for recapturing and incinerating all hydrocarbons that are produced from the recycled materials.

Eligibility

- ORS 468.155 The **sole purpose** of this **new equipment** is to prevent, control or reduce a
(1)(a) substantial quantity of solid waste.
- ORS 468.155 The use of a **material recovery process** which obtains useful material from
(1)(b)(D) material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	05/04/1999
<i>Application Substantially Complete</i>	05/18/1999
<i>Construction Started</i>	04/01/1997
<i>Construction Completed</i>	07/01/1997
<i>Facility Placed into Operation</i>	07/01/1997

Facility Cost

Facility Cost	\$282,897
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Eligible Facility Cost	\$282,897

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, the accounting firm of Boldt, Carlisle & Smith, LLC performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

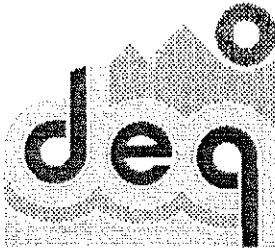
The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is 100%.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	The facility produces useable commodity, recycled asphalt.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. The applicant reported a negative average annual income for the claimed facility. This results in a negative return on investment factor. The return on investment is 0%; therefore the portion allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility: Air Containment 37-0293

Reviewers: William R Bree



Director's
Recommendation: **APPROVAL**
Applicant **Capitol Recycling & Disposal, Inc.**
Application No. **5205**
Facility Cost **\$195,205**
Percentage Allocable **100%**
Useful Life **5 years**

Tax Credit Review Report

EQC 9909

Pollution Control Facility: Solid Waste

Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service that is taking tax relief under taxpayer identification number 93-1197641.

The applicant's address is:

**1890 16th Street S.E.
Salem, OR 97302**

Facility Identification

The certificate will identify the facility as:

4,278 95 gallon yard debris collection carts

The applicant is the owner of the facility located at:

**1890 16th Street S.E.
Salem, OR 97302**

Technical Information

These containers are used for the separation and collection of yard debris from residential recycling collection customers.

Eligibility

ORS 468.155 The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. These containers are used solely for the collection of residential yard debris.
(1)(a)

ORS 468.155 The use of a **material recovery process** which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.
(1)(b)(D)

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>05/06/1999</u>
<i>Application Substantially Complete</i>	<u>05/18/1999</u>
<i>Construction Started</i>	<u>05/09/1997</u>
<i>Construction Completed</i>	<u>06/01/1997</u>
<i>Facility Placed into Operation</i>	<u>09/01/1997</u>

Facility Cost

Facility Cost	\$195,205
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	<u>\$195,205</u>

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, Theodore R. Ahre, CPA performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

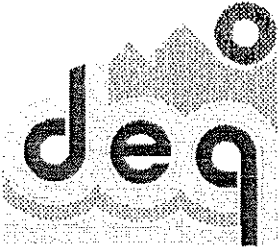
The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	Yard debris is collected and composted into a salable and useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 5 years. The average annual cash flow for the claimed facility is \$24,642. This produces a return on investment factor of 7.92 and a facility return on investment of 0%. The portion of the facility allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	Powell Butte Country Store, Inc.
Application No.	5209
Facility Cost	\$32,133.00
Percentage Allocable	100%
Useful Life	7 years

Pollution Control Facility: USTs Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **an S corporation**
Business: **a retail gasoline station**
Taxpayer ID: **93-1130216**

The applicant's address is:

**13673 SW Hwy 126
Powell Butte OR 97753**

Facility Identification

The certificate will identify the facility as:

**Upgrade facility to meet EPA regulations
for underground storage tanks.**

The applicant is the owner of **DEQ Facility ID
4401**, located at:

**13673 SW Hwy 126
Powell Butte, OR 97753**

Technical Information

The applicant installed one doublewall steel/fiberglass underground storage tank, doublewall flexible plastic piping, spill containment basin, automatic tank gauge system, line leak detectors, overfill alarm, sump, interstitial monitors and automatic shutoff valves.

Eligibility

- ORS 468.155 The **principal purpose** of this **installation** is to prevent, control or reduce a
(1)(a) substantial quantity of air and water pollution.
- OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	05/21/1999
<i>Application Substantially Complete</i>	08/18/1999
<i>Construction Started</i>	04/20/1998
<i>Construction Completed</i>	05/20/1998
<i>Facility Placed into Operation</i>	05/20/1998

Facility Cost

Claimed Facility Cost \$

Corrosion Protection

Steel/fiberglass underground tank – doublewall	\$5,469
Flexible plastic piping – doublewall	\$2,056

Spill & Overfill Prevention

Spill containment basins	602
Overfill alarm	131
Sumps	1,072
Automatic shutoff valves	208

Leak Detection

Automatic tank gauge system	2,483
Interstitial monitors	437
Line Leak detectors	427

Labor, material, misc. parts 19,248

Eligible Facility Cost \$32,133

A DEQ \$45,000 grant received for this project was deducted by the applicant from his claimed cost before submitting the application. Since the facility cost does not exceed \$50,000, an independent accounting review was not required. Invoices and canceled checks substantiated the cost of the facility.

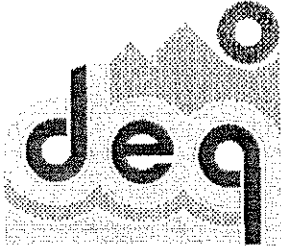
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders, especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Capitol Recycling & Disposal, Inc.**
Application No. **5211**
Facility Cost **\$22,815**
Percentage Allocable **100%**
Useful Life **5 years**

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. The applicant's taxpayer identification number is 93-1197641. The applicant's address is:

**1890 16th Street S.E.
Salem, OR 97302**

Facility Identification

The certificate will identify the facility as:

500 - 95 gallon yard debris collection carts

The applicant is the owner of the facility located at:

**1890 16th Street S.E.
Salem, OR 97302**

Technical Information

These carts are used for the collection of yard debris from residential on-route recycling collection customers.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. These bins are used solely for the collection of yard debris.

ORS 468.155 (1)(b)(D) The use of a **material recovery process** which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	04/24/1999
<i>Application Substantially Complete</i>	06/25/1999
<i>Construction Started</i>	05/01/1997
<i>Construction Completed</i>	06/02/1997
<i>Facility Placed into Operation</i>	06/10/1997

Facility Cost

Facility Cost	\$22,815
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	\$22,815

The facility cost does not exceed \$50,000. Therefore, an independent accounting review was not required. Invoices and cancelled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

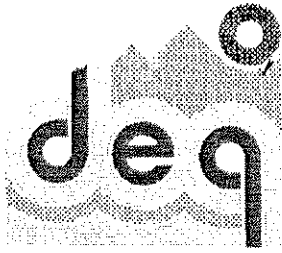
Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	Yard debris is eventually composted into a salable and useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 5 years. There was no calculation of return on investment.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Magnum Properties, Inc.**
Application No. **5213**
Facility Cost **\$10,243**
Percentage Allocable **100%**
Useful Life **3 years**

Pollution Control Facility Tax Credit: Water Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an S corporation operating as a **automotive detail shop**. The applicant's taxpayer identification number is 91-1478220. The applicant's address is:

**P.O. Box 230843
Tigard, OR 97281**

Facility Identification

The certificate will identify the facility as:

A Wash Water Recycling System

The applicant is the owner of the facility located at:

**10655 SW Greenburg Rd.
Tigard, OR 97281**

Technical Information

The claimed facility consists of an Oil/Water Separator and Wash Water Recycling System, Model ALPHA-500D. Runoff water from the Detail Shop power washer is collected in a catch basin then routed to the claimed facility where water is reclaimed and discharged for recycling.

Without this system, runoff water contaminated with degreaser soap, oil and mud from the wash process would be discharged into the stormwater drain and into the City of Tigard sewer system.

Approximately 20,000 gallons of water are recycled annually.

Eligibility

1997 ORS 468.155 (1)(a) The **sole purpose** of this **equipment installation** is to control a substantial quantity of water pollution. The City of Tigard requires this contaminated water be reclaimed and would otherwise charge the applicant a fee for discharging it.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	06/03/1999
<i>Additional Information Requested</i>	07/19/1999
<i>Additional Information Received</i>	08/09/1999
<i>Application Substantially Complete</i>	08/13/1999
<i>Construction Started</i>	12/30/1997
<i>Construction Completed</i>	12/30/1997
<i>Facility Placed into Operation</i>	12/30/1997

Facility Cost

Facility Cost	\$ 10,243
Ineligible Costs	- 0
Eligible Facility Cost	\$ 10,243

A copy of the invoice was provided which substantiated 100% of the cost of the facility. The owner provided a statement requesting a waiver of the Independent Accountant's Statement.

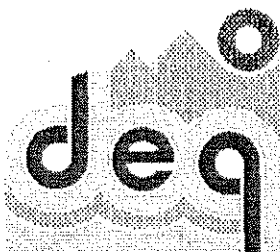
Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost does not exceed \$50,000, therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The facility is used exclusively for pollution control, therefore the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes. There are no DEQ permits issued to facility.

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers
Dennis Cartier, Associate, SJO Consulting Engineers
Maggie Vandehey, DEQ



Tax Credit Review Report

EQC 9909

Director's Recommendation:	APPROVE
Applicant	United Disposal Service Inc.
Application No.	5214
Facility Cost	139,669
Percentage Allocable	100%
Useful Life	5 years

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. The applicant's taxpayer identification number is 93-0625022 and their address is:

**2215 N Front Street
Woodburn, OR 97071**

Facility Identification

The certificate will identify the facility as:

**One 1998 Volvo truck, serial #
4VMHAKMD5WN757209 and one set of 4
Kann Hi-Jacker trough loaders, serial #s
TL42-4783, TL84-4784, TL72-4785, and
TL66-4786.**

The applicant is the owner of the facility located at:

**2215 N. Front Street
Woodburn, OR 97071**

Technical Information

This truck and loader system will be used solely for the collection and transport of source separated residential recyclable materials.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. This truck and trailers are specially designed for source separated recyclable material collection from residential customers and are used solely for that purpose.
- ORS 468.155 (1)(b)(D) The use of a **material recovery process** which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>06/02/1999</u>
<i>Application Substantially Complete</i>	<u>06/25/1999</u>
<i>Construction Started</i>	<u>01/26/1997</u>
<i>Construction Completed</i>	<u>03/09/1998</u>
<i>Facility Placed into Operation</i>	<u>04/01/1998</u>

Facility Cost

Facility Cost	\$139,668
Ineligible Costs	\$ -
Eligible Facility Cost	<u>\$139,668</u>

The facility cost was greater than \$50,000 but less than \$500,000; therefore, Theodore R. Ahre, CPA, performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. Therefore, according to ORS 468.190(1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

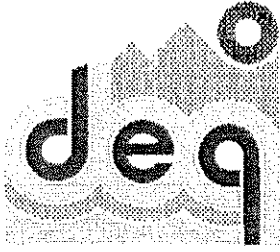
<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 5 years. The reported average annual cash flow is \$14,382. This produces a return on investment factor of 9.71, a return on investment of 0%, and the portion of the facility allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **William C. Smith Farms, Inc.**
Application No. **5215**
Facility Cost **\$43,508.00**
Percentage Allocable **100%**
Useful Life **7 years**

Pollution Control Facility: Field Burning Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **an S corporation**

Business: **a grass seed farm**

Taxpayer ID: **93-1198509**

The applicant's address is:

**6968 Champoeg Road NE
St. Paul, OR 97137**

Facility Identification

The certificate will identify the facility as:

**New Holland baler model #585, serial
#948342**

The applicant is the owner of the facility located
at:

**6968 Champoeg Road NE
St. Paul, OR 97137**

Technical Information

The applicant used to open field-burned as many of his 450 acres of perennial grass seed production as the weather and the smoke management program permitted. To determine if straw removal was a viable alternative to open field burning, the applicant utilized the services of a custom baler operator. Since then, the applicant has determined that reliable, timely removal of the straw necessitates him to have control over the straw removal and the only feasible way to exercise control would be to buy and operate the baler.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of air pollution.
- OAR-016-025 (2)(f)(A) Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>6/11/99</u>
<i>Application Substantially Complete</i>	<u>7/23/99</u>
<i>Construction Started</i>	<u>12/30/97</u>
<i>Construction Completed</i>	<u>12/30/97</u>
<i>Facility Placed into Operation</i>	<u>1/1/98</u>

Facility Cost

Facility Cost	\$43,508.00
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Eligible Facility Cost	\$43,508.00

The facility cost does not exceed \$50,000. Though an independent accounting review was not required the applicant submitted one to substantiate the cost of the facility.

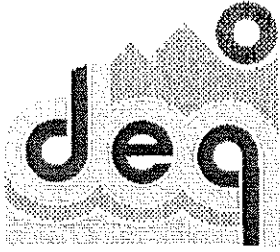
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is 100%.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Jim Britton



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	Capitol Recycling & Disposal, Inc.
Application No.	5216
Facility Cost	\$4,790
Percentage Allocable	100%
Useful Life	10 years

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. Their taxpayer identification number is 93-1197641. The applicant's address is:

**1890 16th Street S.E.
Salem, OR 97302**

Facility Identification

The certificate will identify the facility as:

1,000 14 gallon recycling collection bins

The applicant is the owner of the facility of the facility located at:

**1890 16th Street S.E.
Salem, OR 97302**

Technical Information

These bins are used for the collection of source separated recyclable material from residential on-route recycling collection customers.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. These bins are used solely for the collection of recyclable material.
- ORS 468.155 (1)(b)(D) The use of a **material recovery process** which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	06/10/1999
<i>Application Substantially Complete</i>	06/25/1999
<i>Construction Started</i>	07/20/1997
<i>Construction Completed</i>	08/27/1997
<i>Facility Placed into Operation</i>	09/01/1997

Facility Cost

Facility Cost	\$4,790
Ineligible Costs	\$ -
Eligible Facility Cost	\$4,790

The facility cost does not exceed \$50,000. Therefore, an independent accounting review was not required. Invoices and cancelled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

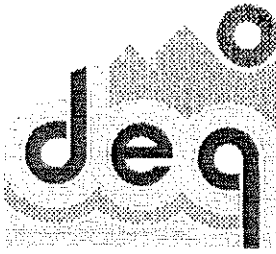
Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	Collected materials are recycled into salable and useable commodities.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. There was no calculation of return on investment.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **L.W. Neuschwander**
Application No. **5217**
Facility Cost **\$125,870.00**
Percentage Allocable **86%**
Useful Life **7 years**

Pollution Control Facility: Field Burning Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a Sole Proprietor**
Business: **a grass seed farm**
Taxpayer ID: **543-28-5452-A**

The applicant's address is:

**31488 Harris Drive
Harrisburg, OR 97446**

Facility Identification

The certificate will identify the facility as:

John Deere 8400 225hp Tractor

The applicant is the owner of the facility located at:

**31488 Harris Drive
Harrisburg, OR 97446**

Technical Information

At one time this applicant open field burned as many acres as the weather and smoke management program permitted. He experimented with flail chopping the full straw load on his 489 acres of annual grass seed followed by plowing the straw under and harrowing and rolling in preparation for planting. Now that he has fully adopted the alternative to open field burning he needs this additional tractor and it's horsepower to accomplish these practices in a timely manner.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **new equipment** is to prevent a substantial quantity of air pollution.
- OAR-016-025 (2)(f)(A) Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	6/11/99
<i>Application Substantially Complete</i>	8/4/99
<i>Construction Started</i>	11/4/99
<i>Construction Completed</i>	11/4/98
<i>Facility Placed into Operation</i>	7/1/99

Facility Cost

Facility Cost	\$125,870
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Eligible Facility Cost	\$125,870

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, Price, Koontz & Davies, P.C., Thomas A. Appel, CPA performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost was greater than \$50,000. According to ORS 468.190 (1), the following factors were considered in determining the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility																								
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.																								
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.																								
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.																								
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.																								
ORS 468.190(1)(e) Other Relevant Factors	The established average annual operating hours for tractors is set at 450 hours. To obtain a total percent allocable, the annual operating hours per implement used in reducing acreage open field burned is as follows:																								
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Implement</th> <th style="text-align: center;">Acres Worked</th> <th style="text-align: center;">Machinery Capacity</th> <th style="text-align: center;">Annual Operating Hours</th> </tr> </thead> <tbody> <tr> <td>Flail chopper</td> <td style="text-align: center;">489</td> <td style="text-align: center;">5</td> <td style="text-align: center;">98</td> </tr> <tr> <td>Plow</td> <td style="text-align: center;">489</td> <td style="text-align: center;">5</td> <td style="text-align: center;">98</td> </tr> <tr> <td>Harrow/roller</td> <td style="text-align: center;">1,223*</td> <td style="text-align: center;">7</td> <td style="text-align: center;">175</td> </tr> <tr> <td>Leveler</td> <td style="text-align: center;">100</td> <td style="text-align: center;">7</td> <td style="text-align: center;">14</td> </tr> <tr> <td colspan="3" style="text-align: right;">Total Annual Operating Hours</td> <td style="text-align: center;">385</td> </tr> </tbody> </table>	Implement	Acres Worked	Machinery Capacity	Annual Operating Hours	Flail chopper	489	5	98	Plow	489	5	98	Harrow/roller	1,223*	7	175	Leveler	100	7	14	Total Annual Operating Hours			385
Implement	Acres Worked	Machinery Capacity	Annual Operating Hours																						
Flail chopper	489	5	98																						
Plow	489	5	98																						
Harrow/roller	1,223*	7	175																						
Leveler	100	7	14																						
Total Annual Operating Hours			385																						

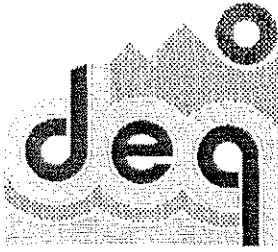
* 489 acres x 2.5 trips

The total annual operating hours of 385 divided by the average annual operating hours of 450 produces a percent allocable of 86%.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: James Britton



Director's
Recommendation: **APPROVE**

Applicant **WWDD Partners**
Application No. **5218**
Facility Cost **\$7,405**
Percentage Allocable **100%**
Useful Life **5 years**

Tax Credit Review Report

EQC 9909

Reclaimed Plastic Products Final Certification

ORS 468.451 -- 468.491
OAR 340-017-0010 -- 340-017-0055

Applicant Identification

The applicant is a partnership leasing equipment for recycling, repressing and manufacturing of post consumer & industrial plastics. The applicant's taxpayer identification number is 93-1157645 and their address is:

**230 NW 10th
Portland, Oregon 97210**

Facility Identification

The certificate will identify the facility as:

**Sweco Vibro Energy Separator Unit serial #
719838-1A**

The applicant is the owner of the facility located at:

**4427 NE 158th
Portland, Oregon 97230**

Technical Information

This equipment, a vibrating separator, is used to process scrap plastic by separating different types of plastic and non plastic materials. Sorted plastic is eventually remelted and molded into reclaimed plastic pellets.

Eligibility

ORS 468.461 (1) Any person may apply to the EQC for certification of an investment made to allow the person to collect, transport or process reclaimed plastic or to manufacture a reclaimed plastic product.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.461(6).

<i>Preliminary Application Received</i>	03/05/1999
<i>Preliminary approval granted</i>	03/05/1999
<i>Date of investment</i>	03/09/1999
<i>Final application received</i>	04/08/1999
<i>Application substantially complete</i>	06/25/1999

Facility Cost

Facility Cost	\$7,405
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	<u>\$7,405</u>

Pursuant to OAR 340-017-0030 (1)(a), invoices substantiated the cost of the facility. The facility cost does not exceed \$50,000; therefore, an independent accounting review was not required.

Investment Cost Allocable to Reclaimed Plastics

Pursuant to ORS 468.486, the following factors were used to determine the percentage of the investment allocable to the collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic product.

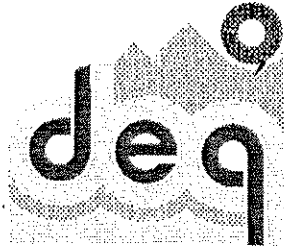
<u>Factor</u>	<u>Applied to This Facility</u>
OAR 340-017-0030 (2)(a) Extent Used to convert reclaimed plastic into a salable or usable commodity.	The equipment is used 100% of the time for processing reclaimed plastic into a salable or useable commodity.
OAR 340-017-0030 (2)(b) The alternative methods, equipment and costs for achieving the same objective;	No alternative methods were considered.
OAR 340-017-0030 (2)(c) Other relevant factors used to establish portion of the cost allocable to collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic products.	No other factors were considered relevant.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	United Disposal Service Inc.
Application No.	5219
Facility Cost	\$4,275
Percentage Allocable	100%
Useful Life	10 years

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycle facility. Their taxpayer identification number is 93-0625022. The applicant's address is:

**United Disposal Service Inc.
2215 N Front Street
Woodburn, OR 97071**

Facility Identification

The certificate will identify the facility as:

**One thousand red 14 gallon recycling
collection bins.**

The applicant is the owner of the facility located at:

**2215 N Front Street
Woodburn, OR 97071**

Technical Information

These collection bins are used for the collection of residential recyclable material that is generated from homes in Marion County. These containers a service-area-wide recycling collection program offered by United Disposal for its residential collection customers.

Eligibility

- ORS 468.155 (1)(a) The sole **purpose** of this **new equipment** is to prevent, control, or reduce a substantial quantity of solid waste. These bins are used exclusively for the collection of recyclable material.
- ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165(6).

<i>Application Received</i>	06/17/1999
<i>Application Substantially Complete</i>	06/25/1999
<i>Construction Started</i>	03/30/1999
<i>Construction Completed</i>	05/11/1999
<i>Facility Placed into Operation</i>	05/20/1999

Facility Cost

Facility Cost	\$4,275
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	\$4,275

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed \$50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	Collected materials are recycled into salable or useable commodities.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. There was no calculation of return on investment.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	United Disposal Service Inc..
Application No.	5220
Facility Cost	\$4,260
Percentage Allocable	100%
Useful Life	10 years

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycle facility. The applicant's taxpayer identification number is 93-0625022 and their address is:

**2215 N Front Street
Woodburn, OR 97071**

Facility Identification

The certificate will identify the facility as:

**One thousand white 14 gallon recycling
collection bins.**

The applicant is the owner of the facility located
at:

**2215 N Front Street
Woodburn, OR 97071**

Technical Information

These collection bins are used for the collection of residential recyclable material that is generated from homes in Clackamas County. These containers a service-area-wide recycling collection program offered by United Disposal for its residential collection customers.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **new equipment** is to prevent, control, or reduce a substantial quantity of solid waste. These bins are used exclusively for the collection of recyclable material.
- ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165(6).

<i>Application Received</i>	06/17/1999
<i>Application Substantially Complete</i>	06/25/1999
<i>Construction Started</i>	04/15/1999
<i>Construction Completed</i>	05/17/1999
<i>Facility Placed into Operation</i>	06/01/1999

Facility Cost

Facility Cost	\$4,260
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	\$4,260

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed \$50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

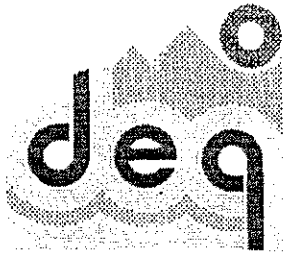
Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	Collected recyclable materials are recycled into salable or useable commodities.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. There was no calculation of return on investment.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **PRELIMINARY APPROVAL**

Applicant **Freres Lumber Company, Inc.**
Application No. **5222**
Facility Cost **\$120,000**
Percentage Allocable **100%**
Useful Life **7 years**

Pollution Control Facility: Water Preliminary Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as manufacturer of green veneer, dry veneer, and plywood. The applicant's taxpayer identification number is 93-0357299 and their address is:

**P.O. Box 276
Lyons, OR. 97358**

Facility Identification

The certificate will identify the facility as:

Wash Water Recycling System

The applicant is the owner of the facility located at:

**141 14th Street
Lyons, OR. 97358**

Technical Information

The applicant is proposing to install a wash system that removes oil and solids from trucks, trailers, and heavy equipment, then recycles the wastewater in a closed loop, reusing the water. The claimed pollution control facility consists of:

1. A Landa Hot Water Pressure Washer, model #VNG6-30021C, with LP conversion, necessary electronic controls, and a Turbo Dirt Killer nozzle with hose;
2. A fenced retention basin with weirs to collect wastewater and allow solids to pre-settle;
3. A United Reverse Trench Drain, Model #TDS 16-333, to allow lighter contaminants to float off and heavier particles to settle for removal;
4. A Landa Pre-Wash Solids Separator, model #30-759, which uses a cyclone separator to spin out heavy solids and recirculates the wash water for reuse;
5. A Landa Wash Water Cleaning system, model # CLP 7023A, to separate oil/water/solids by using an oil skimmer, an oil emulsion breaker, cone-shaped coalescing plates to collect oil and slow water flow to enhance the separation process, a multi-media filter, a carbon filter, two 20-micron cartridge filters, and an ORP/pH adjuster;

6. An open-sided steel truss building with metal roof to shelter the recycling equipment thereby preventing precipitation from entering the system and protect it from freezing

The removed solids will be disposed of in a landfill. Existing oil/water/solids separators in place at the lumber plant will remain functional to provide treatment of storm water runoff.

If the facility were constructed as outlined, it would be partially eligible for pollution control tax credit certification. Only the components that provide a pollution control benefit would be eligible. The final application should provide more specific information about the trenches, drain system, and building. Items such as the pressure washer, fencing and the area of the building which is used to provide shelter over the vehicle washing area are ineligible because they do not provide for pollution control or reduction.

Eligibility

- ORS 468.155 The **sole purpose** of this **new equipment installation** is to control and reduce a substantial quantity of water pollution.
 (1)(a)
 ORS 468.155 The facility **qualifies as a water pollution control facility** since the pollution control is accomplished by the disposal of industrial waste and it is accomplished by the use of treatment works for industrial waste as defined in the water pollution control laws (ORS 468B.005.)
 (1)(b)

"Disposal system" means a system for disposing of wastes, either by surface or underground methods and includes municipal sewerage systems, domestic sewerage systems, treatment works, disposal wells and other systems.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Preliminary Application Received</i>	<u>06/17/1999</u>
<i>Additional Information Requested</i>	<u>07/23/1999</u>
<i>Additional Information Received</i>	<u>07/28/1999</u>
<i>Application Substantially Complete</i>	<u>08/12/1999</u>

Facility Cost

Estimated Facility Cost \$ 120,000
Ineligible Costs
 Pressure Washer
 Fencing
 Parts of the wash area building

The pressure washer and fencing are not eligible because they do not meet the definition of a water pollution control facility. Parts of the wash area building could be eligible.

Facility Cost Allocable to Pollution Control

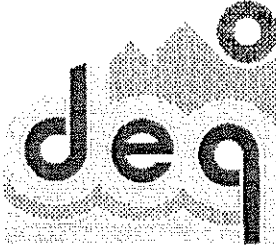
Preliminary certification does not certify the percentage of the facility cost allocable to pollution control. The factors below were not considered as is required for final certification of a facility cost that exceeds \$50,000.

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	
ORS 468.190(1)(b) Return on Investment	
ORS 468.190(1)(c) Alternative Methods	
ORS 468.190(1)(d) Savings or Increase in Costs	

Compliance

The applicant states they are in compliance with all DEQ, Regional Air Authority and EPA Regulations. Freres Lumber Plants #1 & #2 currently have a 1200-Z NPDES Stormwater permit issued to this facility.

Reviewers: Lois Payne, P.E., SJO Consulting Engineers
Dennis E. Cartier, Associate, SJO Consulting Engineers
Maggie Vandehey, DEQ



Tax Credit Review Report

EQC 6/30/99

Director's
Recommendation: **APPROVE**

Applicant **Bimor Stations Inc**
Application No. **5224**
Facility Cost **\$93,262**
Percentage Allocable **86%**
Useful Life **10 yrs**

Pollution Control Facility: USTs Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a corporation**
Business: **a retail gas station**
Taxpayer ID: **93-0714002**

The applicant's address is:

**PO Box 1220
Medford, OR 97501-2053**

Facility Identification

The certificate will identify the facility as:

**Upgrade facility to meet EPA
requirements.**

The applicant is the owner of **DEQ Facility ID
3575**, located at:

**1515 Siskiyou Blvd.
Ashland, OR 97520**

Technical Information

The applicant installed two doublewall fiberglass underground storage tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, line/turbine leak detectors, sumps, monitoring wells, oil/water separator and automatic shutoff valves.

Eligibility

- ORS 468.155 The **principal purpose** of this **installation** is to prevent, control or reduce a
(1)(a) substantial quantity of air and water pollution.
OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>06/23/1999</u>
<i>Application Substantially Complete</i>	<u>08/23/1999</u>
<i>Construction Started</i>	<u>01/15/1999</u>
<i>Construction Completed</i>	<u>03/22/1999</u>
<i>Facility Placed into Operation</i>	<u>03/22/1999</u>

Facility Cost

Claimed Facility Cost \$93,977

Corrosion Protection

Fiberglass underground tanks – doublewall	\$25,468
Flexible plastic piping – doublewall	3,488

Spill & Overfill Prevention

Spill Containment basins	1,275
Overfill alarm	300
Sumps	1,242
Automatic shutoff valves	656
Oil/Water separator	2,275

Leak Detection

Automatic tank gauge system	7,153
Line/turbine leak detectors	1,008
Monitoring wells	164

Labor, material, misc. parts

50,948
\$93,977

Ineligible Costs

Ten percent of the Tank Gauge System is ineligible since the device can serve other purposes, for example, inventory control. (\$715)

Eligible Facility Cost \$93,262

The applicant applied for a waiver of the independent accounting review since invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Most cost-effective method was chosen.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.
ORS 468.190(1)(e) Other Relevant Factors	Eligible Facility Cost \$93,262
	Less Claimed Corrosion Protection (\$28,956)

The allocable cost of a corrosion-protected tank and piping system is determined by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to this application:

<u>System Cost</u>			
Protected system cost	\$28,956	less bare steel cost	\$12,994
			=\$15,962

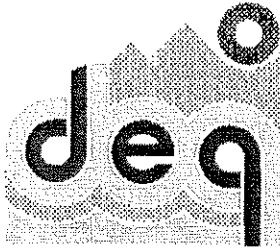
Total Reduced Cost \$80,268

Total Reduced Cost ÷ Eligible Facility Cost = the percentage of the facility cost allocable to pollution control **86%**

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders, especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **4 B Farms, Inc.**
Application No. **5225**
Facility Cost **\$105,452.00**
Percentage Allocable **63%**
Useful Life **10 years**

Pollution Control Facility: Field Burning Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a C corporation**
Business: **grass seed farm**
Taxpayer ID: **93-0611778**

The applicant's address is:

**15234 Butsch Lane NE
Mount Angel, OR 97362**

Facility Identification

The certificate will identify the facility as:

**John Deere 7810 150 hp and Rear's Flail
Chopper**

The applicant is the owner of the facility located
at:

**15234 Butsch Lane NE
Mount Angel, OR 97362**

Technical Information

The applicant propane-flamed and stack burned the residue from approximately 535 acres. After bulk straw removal the applicant can flail chop the residue in a timely manner with the addition of the John Deere 7810 (150 hp tractor) and Rear's flail chopper.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of air pollution.
- OAR-016-025 (2)(f)(A) Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>7/1/99</u>
<i>Application Substantially Complete</i>	<u>8/4/99</u>
<i>Construction Started</i>	<u>12/31/98</u>
<i>Construction Completed</i>	<u>6/4/99</u>
<i>Facility Placed into Operation</i>	<u>7/20/99</u>

Facility Cost

Facility Cost	<u>\$105,452.00</u>
Eligible Facility Cost	<u>\$105,452.00</u>

The facility cost was greater than \$50,000 but less than \$500,000; therefore, Earl A. Doman, P.C. performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **63%**.

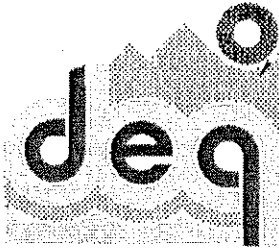
<u>Factor</u>	<u>Applied to This Facility</u>																																								
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.																																								
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues were associated with this facility.																																								
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.																																								
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.																																								
ORS 468.190(1)(e) Other Relevant Factors	<table> <thead> <tr> <th style="text-align: left;"><u>Implement</u></th> <th style="text-align: center;"><u>Acres Worked</u></th> <th style="text-align: center;"><u>Machinery Capacity</u></th> <th style="text-align: center;"><u>Annual Operating Hours</u></th> </tr> </thead> <tbody> <tr> <td>Flail Chopper</td> <td style="text-align: center;">535</td> <td style="text-align: center;">6</td> <td style="text-align: center;">89</td> </tr> <tr> <td>Propaner</td> <td style="text-align: center;">110</td> <td style="text-align: center;">10</td> <td style="text-align: center;">11</td> </tr> <tr> <td>Plow</td> <td style="text-align: center;">330</td> <td style="text-align: center;">6</td> <td style="text-align: center;">55</td> </tr> <tr> <td>Disc</td> <td style="text-align: center;">660*</td> <td style="text-align: center;">6</td> <td style="text-align: center;">110</td> </tr> <tr> <td colspan="3"><u>Total Annual Operating Hours</u></td> <td style="text-align: center;"><u>265</u></td> </tr> </tbody> </table> <p>The total annual operating hours of 265 divided by the average annual operating hours of 450 produces a percent allocable of 59%.</p> <table> <thead> <tr> <th style="text-align: left;"><u>Equipment</u></th> <th style="text-align: center;"><u>Claimed Cost</u></th> <th style="text-align: center;"><u>% Allocable</u></th> <th style="text-align: center;"><u>Allowable</u></th> </tr> </thead> <tbody> <tr> <td>John Deere 7810</td> <td style="text-align: right;">\$94,300.00</td> <td style="text-align: center;">59%</td> <td style="text-align: right;">\$55,637.00</td> </tr> <tr> <td>Rear's flail chopper</td> <td style="text-align: right;">\$11,152.00</td> <td style="text-align: center;">100%</td> <td style="text-align: right;">\$11,152.00</td> </tr> <tr> <td><u>Total</u></td> <td style="text-align: right;"><u>\$105,452.00</u></td> <td style="text-align: center;"><u>63%</u></td> <td style="text-align: right;"><u>\$66,789.00</u></td> </tr> </tbody> </table>	<u>Implement</u>	<u>Acres Worked</u>	<u>Machinery Capacity</u>	<u>Annual Operating Hours</u>	Flail Chopper	535	6	89	Propaner	110	10	11	Plow	330	6	55	Disc	660*	6	110	<u>Total Annual Operating Hours</u>			<u>265</u>	<u>Equipment</u>	<u>Claimed Cost</u>	<u>% Allocable</u>	<u>Allowable</u>	John Deere 7810	\$94,300.00	59%	\$55,637.00	Rear's flail chopper	\$11,152.00	100%	\$11,152.00	<u>Total</u>	<u>\$105,452.00</u>	<u>63%</u>	<u>\$66,789.00</u>
<u>Implement</u>	<u>Acres Worked</u>	<u>Machinery Capacity</u>	<u>Annual Operating Hours</u>																																						
Flail Chopper	535	6	89																																						
Propaner	110	10	11																																						
Plow	330	6	55																																						
Disc	660*	6	110																																						
<u>Total Annual Operating Hours</u>			<u>265</u>																																						
<u>Equipment</u>	<u>Claimed Cost</u>	<u>% Allocable</u>	<u>Allowable</u>																																						
John Deere 7810	\$94,300.00	59%	\$55,637.00																																						
Rear's flail chopper	\$11,152.00	100%	\$11,152.00																																						
<u>Total</u>	<u>\$105,452.00</u>	<u>63%</u>	<u>\$66,789.00</u>																																						

*330 acres x 2 trips

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: James Britton



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Magnum Properties, Inc.**
Application No. **5226**
Facility Cost **\$16,595**
Percentage Allocable **100%**
Useful Life **3 years**

Pollution Control Facility Tax Credit: Water Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an S corporation operating as a **automotive detail shop**. The applicant's taxpayer identification number is 91-1478220.

The applicant's address is:

**P.O. Box 230843
Tigard, OR 97281**

Facility Identification

The certificate will identify the facility as:

A Wash Water Recycling System

The applicant is the **owner** of the facility located at:

**10655 SW Greenburg Rd.
Tigard, OR 97281**

Technical Information

The claimed facility consists of an Oil/Water Separator and Wash Water Recycling System, Model ALPHA-500D. Runoff water from the Detail Shop power washer is collected in a catch basin then routed to the claimed facility where water is reclaimed and discharged for recycling.

Without this system, runoff water contaminated with degreaser soap, oil and mud from the wash process would be discharged into the stormwater drain and into the City of Tigard sewer system.

Approximately 20,000 gallons of water are recycled annually.

Eligibility

1997 ORS 468.155 (1)(a) The **sole purpose** of this **equipment installation** is to control a substantial quantity of water pollution. The City of Tigard requires this contaminated water be reclaimed and would otherwise charge the applicant a fee for discharging it.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>06/03/1999</u>
<i>Additional Information Requested</i>	<u>07/19/1999</u>
<i>Additional Information Received</i>	<u>08/09/1999</u>
<i>Application Substantially Complete</i>	<u>08/13/1999</u>
<i>Construction Started</i>	<u>12/30/1997</u>
<i>Construction Completed</i>	<u>12/30/1997</u>
<i>Facility Placed into Operation</i>	<u>12/30/1997</u>

Facility Cost

Facility Cost	\$ 16,595
Ineligible Costs	- 0
Eligible Facility Cost	<u>\$ 16,595</u>

A copy of the invoice was provided which substantiated 100% of the cost of the facility. The owner provided a statement requesting a waiver of the Independent Accountant's Statement.

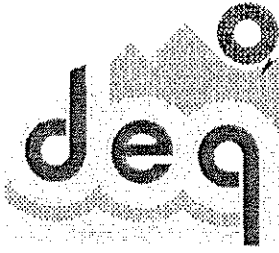
Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost does not exceed \$50,000, therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The facility is used exclusively for pollution control, therefore the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes. There are no DEQ permits issued to facility.

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers
Dennis Cartier, Associate, SJO Consulting Engineers
Maggie Vandehey, DEQ



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Bob Weber, Inc.**
Application No. **5234**
Facility Cost **\$2,895.00**
Percentage Allocable **100%**
Useful Life **3 years**

Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a C corporation**
Business: **retail gasoline service station**
Taxpayer ID: **93-0749461**

The applicant's address is:

**10120 SW Capitol Hwy.
Portland, OR 97219**

Facility Identification

The certificate will identify the facility as:

**Viper GT automotive A/C recycling
equipment; R-12 & R-134A recovery and
recycling machine**

The applicant is the owner of the facility located
at:

**10120 SW Capitol Hwy.
Portland, OR 97219**

Technical Information

The equipment controls air contaminants by recycling automobile air conditioner refrigerants instead of discharging to the atmosphere. The UL Listed recovery and recycling equipment is a certified single pass unit. The machine has recharge capabilities.

Recycled refrigerant exceeds Society of Automotive Engineers (SAE) J2210 and J1991 purity standards.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new equipment** is to prevent a substantial quantity of air pollution. It complies with the DEQ requirements of OAR 340-022-0405 to OAR 340-022-0415, Control Ozone Depleting Chemicals, to recycle air conditioning refrigerants. This equipment captures and recycles contaminants that would otherwise be released to the atmosphere, as defined in ORS 468.275.

ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>7/21/99</u>
<i>Application Substantially Complete</i>	<u>9/17/99</u>
<i>Construction Started</i>	<u>6/17/99</u>
<i>Construction Completed</i>	<u>6/17/99</u>
<i>Facility Placed into Operation</i>	<u>6/17/99</u>

Facility Cost

Facility Cost	\$3,595.00
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Ineligible Cost	
Recharge Capabilities – Standard Deduction	<u>(700.00)</u>
Eligible Facility Cost	\$2,895.00

The facility cost does not exceed \$50,000. An independent accounting review was not required. However, an invoice substantiated the cost of the facility.

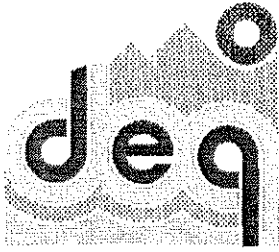
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Curtis Johnston**
Application No. **5235**
Facility Cost **\$92,000.00**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **S corporation**

Business: **farm**

Taxpayer ID: **SSN**

The applicant's address is:

**11320 SE Lafayette Hwy
Dayton, OR 97114**

Facility Identification

The certificate will identify the facility as:

**Four buildings modified for the storage of
straw**

The applicant is the owner of the facility located
at:

**11320 SE Lafayette Hwy
Dayton, OR 97114**

Technical Information

This applicant open field-burned and stack burned as much grass seed residue as the weather and smoke management program permitted. He has recently turned to custom balers to remove the bulk straw from his fields as an alternative to thermal sanitization and disposal. To accommodate the custom balers and insure the timely removal of the straw, the applicant purchased four buildings and land, previously used to raise turkeys, for straw storage. The construction costs reflect the raising of each building four-feet to accommodate the straw bale handling equipment. The storage capacity will allow the applicant to remove approximately 1,500 acres of tall fescue and perennial rye grass from open field burning and stack burning consideration.

Eligibility

- ORS 468.155 (1)(a) The **principal purpose** of this **reconstructed building** is to prevent, control or reduce a substantial quantity of air pollution.
- ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	7/21/99
<i>Application Substantially Complete</i>	8/04/99
<i>Construction Started</i>	3/01/99
<i>Construction Completed</i>	6/01/99
<i>Facility Placed into Operation</i>	7/25/99

Facility Cost

Facility Cost	\$92,000.00
Eligible Facility Cost	\$92,000.00

The facility cost was greater than \$50,000 but less than \$500,000. The applicant applied for a waiver of the independent accounting review since invoices and canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

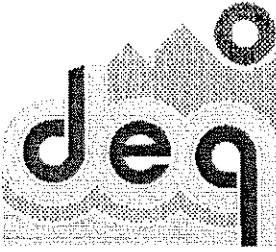
The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	The baled straw is a salable commodity. However, the applicant provides the storage buildings to the custom balers who market the product. Any income is derived from renting the space on a per ton basis.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. The actual cost of claimed equipment (\$92,000) divided by the average annual cash flow (\$3,516) equals a return on investment factor of 26.167. Using Table 1 of OAR 340-16-030 for a life of 20 years, the annual percent return on investment is 0%. Using the annual percent return of 0% and the reference annual percent return of 6.4%, 100% is allocable to pollution control.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.
There are no DEQ permits issued to the facility.

Reviewers: James Britton



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Capitol Recycling & Disposal, Inc.**
Application No. **5237**
Facility Cost **\$15,724**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. The applicant's taxpayer identification number is 93-1197641 and their address is:

**1890 16th Street S.E.
Salem, OR 97302**

Facility Identification

The certificate will identify the facility as:

Four 40 yard drop boxes

The applicant is the owner of the facility located at:

**1890 16th Street S.E.
Salem, OR 97302**

Technical Information

These drop boxes are used for the collection of source separated recyclable material from commercial recycling collection customers.

Eligibility

- ORS 468.155 The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. These drop boxes are used solely for the collection of recyclable material.
- (1)(a)
- ORS 468.155 The use of a **material recovery process** which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.
- (1)(b)(D)

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>07/23/1999</u>
<i>Application Substantially Complete</i>	<u>07/28/1999</u>
<i>Construction Started</i>	<u>10/15/1997</u>
<i>Construction Completed</i>	<u>11/25/1997</u>
<i>Facility Placed into Operation</i>	<u>12/01/1997</u>

Facility Cost

Facility Cost	\$15,724
Ineligible Costs	\$ -
Eligible Facility Cost	<u>\$15,724</u>

The facility cost does not exceed \$50,000. Therefore, an independent accounting review was not required. Invoices and cancelled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

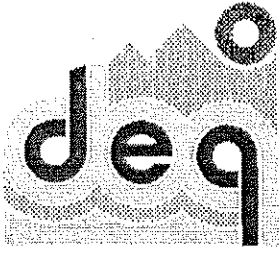
<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	Collected materials are recycled into salable and useable commodities.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. There was no calculation of return on investment.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Capitol Recycling & Disposal, Inc.**
Application No. **5238**
Facility Cost **\$44,352**
Percentage Allocable **100%**
Useful Life **5 years**

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. Their taxpayer identification number is 93-1197641. The applicant's address is:

**1890 16th Street S.E.
Salem, OR 97302**

Facility Identification

The certificate will identify the facility as:

972 95 gallon yard debris collection carts

The applicant is the owner of the facility located at:

**1890 16th Street S.E.
Salem, OR 97302**

Technical Information

These carts are used for the collection of source separated yard debris from residential recycling collection customers.

Eligibility

- ORS 468.155 The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. These carts are used solely for the collection of compostable yard debris.
- (1)(a)
- ORS 468.155 The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.
- (1)(b)(D)

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>07/23/1999</u>
<i>Application Substantially Complete</i>	<u>07/28/1999</u>
<i>Construction Started</i>	<u>01/09/1997</u>
<i>Construction Completed</i>	<u>10/01/1997</u>
<i>Facility Placed into Operation</i>	<u>10/15/1997</u>

Facility Cost

Facility Cost	\$44,352
Ineligible Costs	\$ -
Eligible Facility Cost	<u>\$44,352</u>

The facility cost does not exceed \$50,000. Therefore, an independent accounting review was not required. Invoices and cancelled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

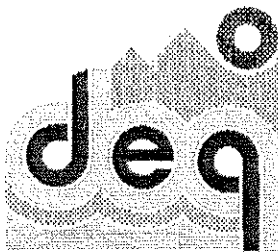
Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	Collected materials are recycled into salable and useable commodities.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 5 years. There was no calculation of return on investment.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Capitol Recycling & Disposal, Inc.**
Application No. **5239**
Facility Cost **\$39,897**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. The applicant's taxpayer identification number is 93-1197641 and their address is:

**1890 16th Street S.E.
Salem, OR 97302**

Facility Identification

The certificate will identify the facility as:

Ten 40 yard drop boxes

The applicant is the owner of the facility located at:

**1890 16th Street S.E.
Salem, OR 97302**

Technical Information

These drop boxes are used for the collection of source separated recyclable material from commercial recycling collection customers.

Eligibility

- ORS 468.155 The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. These drop boxes are used solely for the collection of recyclable material.
- (1)(a)
- ORS 468.155 The use of a **material recovery process** which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.
- (1)(b)(D)

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>07/23/1999</u>
<i>Application Substantially Complete</i>	<u>07/28/1999</u>
<i>Construction Started</i>	<u>04/15/1998</u>
<i>Construction Completed</i>	<u>05/18/1998</u>
<i>Facility Placed into Operation</i>	<u>06/10/1998</u>

Facility Cost

Facility Cost	\$39,897
Ineligible Costs	\$ -
Eligible Facility Cost	<u>\$39,897</u>

The facility cost does not exceed \$50,000. Therefore, an independent accounting review was not required. Invoices and cancelled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Carson Oil Company**
Application No. **5241**
Facility Cost **\$268,362**
Percentage Allocable **83%**
Useful Life **10 years**

Pollution Control Facility: USTs Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **a C corporation**
Business: **petroleum distribution center**
Taxpayer ID: **93-0465110**

The applicant's address is:

**PO Box 10948
Portland, OR 97296-0948**

Facility Identification

The certificate will identify the facility as:

**Upgraded facility to meet EPA
requirements.**

The applicant is the owner of **DEQ facility ID
No. 3066** located at:

**3125 NW 35th Avenue
Portland, OR 97210**

Technical Information

The applicant installed eight doublewall fiberglass/steel underground storage tanks, doublewall flexible plastic piping, sumps, automatic shutoff valves and miscellaneous tank system equipment, material and supplies.

Eligibility

- ORS 468.155 The **principal purpose** of this **installation** is to prevent, control or reduce a
(1)(a) substantial quantity of air and water pollution.
OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	07/27/1999
<i>Application Substantially Complete</i>	
<i>Construction Started</i>	06/06/1997
<i>Construction Completed</i>	07/31/1998
<i>Facility Placed into Operation</i>	07/31/1998

Facility Cost

Claimed Facility Cost **\$268,362**

Corrosion Protection

Fiberglass/steel tanks – doublewall	\$86,942
Flexible plastic piping – doublewall	10,125

Spill & Overfill Prevention

Sumps	10,629
Automatic shutoff valves	417

Labor, material, misc. parts

160,249

Eligible Facility Cost \$268,362

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, **ACCOUNTING FIRM** performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control.

Eligible Facility Cost	\$268,362
Less Claimed Corrosion Protection	97,067

The allocable cost of a corrosion protected tank and piping system is determined by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to this application:

<u>System Cost</u>			
Protected system cost	\$97,067	less bare steel cost	\$44,865
			\$52,202
		Total Reduced Cost	\$223,497

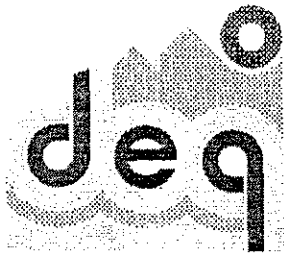
Total Reduced Cost ÷ Eligible Facility Cost = the percentage of the facility cost allocable to pollution control **83%**

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with E99999QC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **TOC, Inc.**
Application No. **5244**
Facility Cost **\$1,712.00**
Percentage Allocable **100%**
Useful Life **3 years**

Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **an S corporation**
Business: **automotive maintenance**
Taxpayer ID: **93-1232326**

The applicant's address is:

**14885 SW 100th Avenue
Tigard, OR 97224**

Facility Identification

The certificate will identify the facility as:

**RTI R-12 automotive refrigerant recovery
and recycling machine. Model number
TC670E.**

The applicant is the owner of the facility located
at:

**19310 Mohave Ct
Tualatin, OR 97062**

Technical Information

The equipment controls air contaminants by recycling automobile air conditioner refrigerants instead of discharging to the atmosphere. The recovery and recycling equipment is certified by UL to meet Society of Automotive Engineers (SAE) standard J1220.

Eligibility

ORS 468.155 The **principal purpose** of this **new equipment** is to prevent a substantial quantity of air pollution. It complies with the DEQ requirements of OAR 340-022-0405 to OAR 340-022-0415, Control Ozone Depleting Chemicals, to recycle air conditioning refrigerants. This equipment captures and recycles contaminants that would otherwise be released to the atmosphere, as defined in ORS 468.275.

ORS 468.155 The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>7/30/99</u>
<i>Application Substantially Complete</i>	<u>8/17/99</u>
<i>Construction Started</i>	<u>3/25/99</u>
<i>Construction Completed</i>	<u>3/25/99</u>
<i>Facility Placed into Operation</i>	<u>3/25/99</u>

Facility Cost

Facility Cost	\$1,712.00
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Eligible Facility Cost	\$1,712.00

The facility cost does not exceed \$50,000; therefore, copies of an invoice and a canceled check substantiated the cost of the facility. The facility does not have recharge capabilities.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewer: Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	Courtesy Automotive, Inc
Application No.	5245
Facility Cost	\$2,495
Percentage Allocable	100%
Useful Life	3 years

Pollution Control Facility: Air/CFC

Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **an S corporation**

Business: **a retail automotive repair shop**

Taxpayer ID: **93-0914399**

The applicant's address is:

**5215 SW Beaverton Hillsdale Hwy
Portland, OR 97221**

Facility Identification

The certificate will identify the facility as:

Robinair refrigerant recovery and recycling equipment with recharge capabilities model number 34700 for R-134a and model number 17700A for R-12.

The applicant is the owner of the facility located at:

**5215 SW Beaverton Hillsdale Hwy
Portland, OR 97221**

Technical Information

The automotive recovery and recycling equipment is a certified single pass unit. The recovered refrigerant passes through the recycling filter dryer on the way to the tank. The refrigerant is recycled during evacuation.

Eligibility

- ORS 468.155 (1)(a) The **principal purpose** of this **new equipment** is to prevent a substantial quantity of air pollution. The equipment complies with DEQ requirements in OAR 340-022-0405 and OAR 340-022-0415.
- ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>7/30/99</u>
<i>Application Substantially Complete</i>	<u>8/16/99</u>
<i>Construction Started</i>	<u>6/11/99</u>
<i>Construction Completed</i>	<u>6/11/99</u>
<i>Facility Placed into Operation</i>	<u>6/11/99</u>

Facility Cost

Facility Cost	\$2,495.00
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Eligible Facility Cost	\$2,495.00

The facility cost does not exceed \$50,000. An independent accounting review was not required. However, an invoice substantiated the cost of the facility.

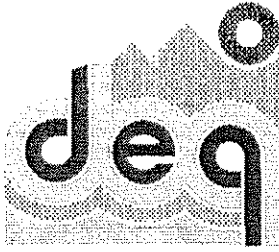
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Jubitz Corporation**
Application No. **5247**
Facility Cost **\$449,953.00**
Percentage Allocable **90%**
Useful Life **10 years**

Pollution Control Facility: USTs

Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **an S corporation**

Business: **a truck fueling station**

Taxpayer ID: **93-0403718**

The applicant's address is:

**5440 SW Westgate Dr. Ste. 150
Portland, OR 97221**

Facility Identification

The certificate will identify the facility as:

Upgrade to meet EPA requirements.

The applicant is the owner of **DEQ Facility ID 11674** located at:

**33 NE Middlefield Road
Portland, OR 97211**

Technical Information

The applicant installed five doublewall fiberglass underground tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, overfill alarm, sumps, monitoring wells, automatic shutoff valves and Stage II vapor recovery.

Eligibility

ORS 468.155 The **principal purpose** of this **installation** is to prevent, control or reduce a
(1)(a) substantial quantity of air and water pollution.

OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	08/04/1999
<i>Application Substantially Complete</i>	08/19/1999
<i>Construction Started</i>	12/01/1996
<i>Construction Completed</i>	08/01/1997
<i>Facility Placed into Operation</i>	08/01/1997

Facility Cost

Claimed Facility Cost

Corrosion Protection

5 Fiberglass underground tanks – doublewall	\$89,000
Flexible plastic piping – doublewall	\$29,210

Spill & Overfill Prevention

Spill containment basins	1,692
Overfill alarm	297
Sumps	6,166
Automatic shutoff valves	584

Leak Detection

Automatic tank gauge system	13,807
Monitoring wells for leak detection	234
Turbine Leak detectors	2,293

VOC Reduction

Stage II vapor recovery	6,253
-------------------------	-------

Labor, material, misc. parts

352,869
\$451,334

Ineligible Costs

Ten percent of the Tank Gauge System is ineligible since the device can serve other purposes, for example, inventory control.	(\$1,381)
---	-----------

Eligible Facility Cost \$449,953

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, **Fordham & Fordham, PC** performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the

return on investment consideration is years.
No gross annual revenues were associated with this facility.
No alternative investigated.
No savings or increase in costs.
No other relevant factors.

ORS 468.190(1)(c) Alternative Methods
ORS 468.190(1)(d) Savings or Increase in Costs
ORS 468.190(1)(e) Other Relevant Factors
ORS 468.190(1)(e)
Other Relevant Factors

Eligible Facility Cost	\$449,953
Less Claimed Corrosion Protection	(118,210)

The allocable cost of a corrosion-protected tank and piping system is determined by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to this application:

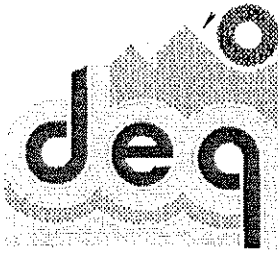
<u>System Cost</u>				
Protected system cost	\$118,210	less bare steel cost	\$46,140	= \$72,070
			Total Reduced Cost	\$403,813

Total Reduced Cost ÷ Eligible Facility Cost = the percentage of the facility cost allocable to pollution control **90%**

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders, especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

Reviewers: Barbara J Anderson



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	United Disposal Service Inc.
Application No.	5250
Facility Cost	\$165,744
Percentage Allocable	100%
Useful Life	5 years

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. The applicant's taxpayer identification number is 93-0625022. The applicant's address is:

**2215 N Front Street
Woodburn, OR 97071**

Facility Identification

The certificate will identify the facility as:

**One 1998 Volvo truck, serial
#4V4EAKNE9WN757577, one Heil Rapid
Rail Starr Automated Loading Only System,
and one Heil Rapid Rail Trailer**

The applicant is the owner of the facility located at:

**2215 N. Front Street
Woodburn, OR 97071**

Technical Information

This truck and trailer will be used solely for the collection and transport of source separated yard debris.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. This truck and loader are designated for yard debris collection from residential customers and are used solely for that purpose.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	08/16/1999
<i>Application Substantially Complete</i>	08/20/1999
<i>Construction Started</i>	11/01/1997
<i>Construction Completed</i>	03/13/1998
<i>Facility Placed into Operation</i>	07/01/1998

Facility Cost

Facility Cost	\$165,744
Salvage Value	
Government Grants	
Other Tax Credits	
Ineligible Costs	
Eligible Facility Cost	\$165,744

The facility cost was greater than \$50,000 but less than \$500,000; therefore, Theodore R. Ahre, CPA, performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

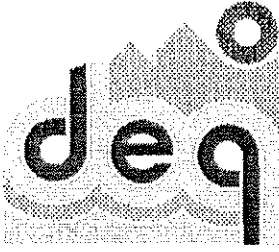
The facility cost exceeds \$50,000. Therefore, according to ORS 468.190(1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	Yard debris is composted into a salable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 5 years. The reported average annual cash flow is \$7,012. This produces a return on investment factor of 23.64 and the portion of the facility allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant **Best Buy In Town, Inc.**
Application No. **5251**
Facility Cost **\$46,093**
Percentage Allocable **100%**
Useful Life **7 years**

Pollution Control Facility: Solid Waste

Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. The applicant's taxpayer identification number is 93-1192988 and their address is:

**4975 SW 65th Ave.
Portland, Oregon 97221**

Facility Identification

The certificate will identify the facility as:

Protec 7221 Trommel serial # 93121051

The applicant is the owner of the facility located at:

**21600 NW Amberwood Dr.
Hillsboro, OR 97124**

Technical Information

This trommel screen is used for the processing composted source separated yard debris to produce a sized product for sale.

Eligibility

- ORS 468.155 The **sole purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. This trommel screen is used solely for the processing of composted yard debris.
- (1)(a)
- ORS 468.155 The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.
- (1)(b)(D)

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	08/10/1999
<i>Application Substantially Complete</i>	08/20/1999
<i>Construction Started</i>	11/01/1997
<i>Construction Completed</i>	12/01/1997
<i>Facility Placed into Operation</i>	12/01/1997

Facility Cost

Facility Cost	\$46,093
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	\$46,093

The facility cost does not exceed \$50,000. However, an independent CPA, Fred L. Southwick, did provide a statement that substantiated the cost of the facility.

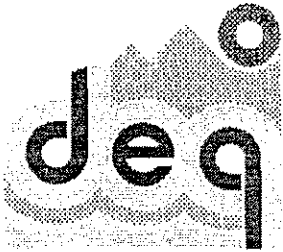
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **APPROVE**

Applicant	Capitol Recycling & Disposal, Inc.
Application No.	5252
Facility Cost	\$4,530
Percentage Allocable	100%
Useful Life	10 years

Pollution Control Facility: Solid Waste

Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. The applicant's taxpayer identification number is 93-1197641. The applicant's address is:

**1890 16th Street SE
Salem, OR 97302**

Facility Identification

The certificate will identify the facility as:

One thousand 14 gallon recycling bins

The applicant is the owner of the facility located at:

**1890 16th Street SE
Salem, OR 97302**

Technical Information

These bins are used for the collection of recyclable materials from residential customers.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of solid waste. These recycling bins are used solely for the collection of recyclable material.

ORS 468.155 (1)(b)(D) The use of a **material recovery process** which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	08/10/1999
<i>Application Substantially Complete</i>	08/20/1999
<i>Construction Started</i>	11/25/1997
<i>Construction Completed</i>	12/19/1997
<i>Facility Placed into Operation</i>	01/02/1998

Facility Cost

Facility Cost	\$4,530
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	\$4,530

The facility cost does not exceed \$50,000. Therefore, an independent accounting review was not required. Invoices and cancelled checks substantiated the cost of the facility.

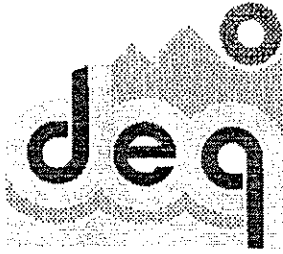
Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree



Director's
Recommendation: **APPROVE**

Tax Credit Review Report

EQC 9909

Applicant **Capitol Recycling & Disposal Inc.**
Application No. **5253**
Facility Cost **\$187,416**
Percentage Allocable **100%**
Useful Life **5 years**

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling service. The applicant's taxpayer identification number is 93-1197641. The applicant's address is:

**1890 16th Street SE
Salem, OR 97302**

Facility Identification

The certificate will identify the facility as:

**One 1998 Volvo truck model WXR42T,
serial #4V4EAKPE4WN754566, one Heil
Rapid Rail Starr Automated Loading Only
System,**

The applicant is the owner of the facility located at:

**1890 16th Street SE
Salem, OR 97302**

Technical Information

This truck and trailer will be used solely for the collection and transport of source separated recyclable materials.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of solid waste. This truck and loader are designated for collection and transportation of recyclable materials from residential and commercial and are used solely for that purpose.

ORS 468.155 (1)(b)(D) The use of a **material recovery process** which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>08/10/1999</u>
<i>Application Substantially Complete</i>	<u>08/20/1999</u>
<i>Construction Started</i>	<u>08/13/1997</u>
<i>Construction Completed</i>	<u>02/05/1998</u>
<i>Facility Placed into Operation</i>	<u>03/01/1998</u>

Facility Cost

Facility Cost	\$187,416
Salvage Value	
Ineligible Costs	
Eligible Facility Cost	<u>\$187,416</u>

The facility cost was greater than \$50,000 but less than \$500,000; therefore, Theodore R. Ahre, CPA, performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds \$50,000. Therefore, according to ORS 468.190(1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	Yard debris is composted into a salable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 5 years. The reported average annual cash flow is \$15,252. This produces a return on investment factor of 12.29 and the portion of the facility allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

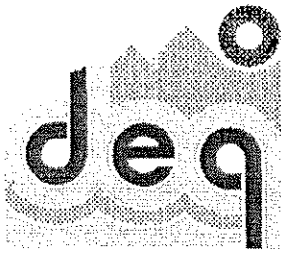
Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree

Attachment C

Denial



Director's
Recommendation: **Deny – Zero Percent Allocable**
Percent Allocable:
Applicant **Waste Control Systems, Inc.**
Application No. **4860**
Claimed Facility Cost **\$3,091,970**
Percentage Allocable **0%**
Useful Life **10 years**

Tax Credit Review Report

EQC 9909

Pollution Control Facility Tax Credit: Solid Waste Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a **holding company**. The taxpayer identification number is 93-0608475. The applicant's Division address is:

Willamette Resources, Inc.
PO Box 807
Corvallis, OR 97339

Facility Identification

The certificate will identify the facility as:

**Mixed waste processing/recovery facility &
equipment**

The applicant is the **owner** of the facility located at:

10295 SW Ridder Road
Wilsonville, OR

Technical Information

The claimed facility is a solid waste material recovery facility that accepts selected loads of solid waste and processes that material to remove all of the recoverable materials. Materials recovered include cardboard, scrap paper, ferrous and non-ferrous metal, wood, sheet rock, plastic, concrete, bricks and reusable building materials. The facility consists of the building, scales, mobile material handling equipment, conveyor systems, sorting equipment, balers, and storage bins. Specific portion of the facility include: Hustler Conveyor company infeed conveyor, oscillating screen, sort conveyor and platform, and baler infeed conveyors; Unitec Scales, Model 10000N2D1; Cat 416 Backhoe loader; Case 1840 Skid Steer loader; and Yale fork lift.

The facility is permitted to receive up to 35,000 tons per year and presently process about 30,000 tons with approximately 15,000 tons per year recovered.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new building and equipment** is to prevent, control or reduce a substantial quantity of solid waste through separation for the purposes of material recovery. The Department, under ORS 459A.010, indirectly imposes the requirement upon the applicant by requiring that Metro meet the Oregon Recycling Act's recovery goal of 50%. Metro imposes the requirement upon the applicant as part of the "Metro Regional Solid Waste Management Plan" recovery rate goal of 53%. In this plan, Metro established certain recommended practices including privately owned and operated material recovery facilities. The Metro plan identifies Willamette Resources' material recovery facility, a Metro Franchised facility in Wilsonville, as a major component of the regional plan to achieve the recovery goal.

ORS 468.155 (1)(b)(D) The use of a **material recovery process** which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application must be submitted within the timing requirements of ORS 468.165 (6). The application was scheduled to go before the Commission in June of 1999. However, the applicant requested that it be removed from the agenda because they wished to review the tipping fees included in the return on investment calculations. The Department did not receive additional information.

<i>Application Dated</i>	<u>10/22/97</u>
<i>Application Received</i>	<u>10/24/97</u>
<i>Application Substantially Complete</i>	<u>5/12/98</u>
<i>Construction Started</i>	<u>11/4/94</u>
<i>Construction Completed</i>	<u>1/10/96</u>
<i>Initial facility start-up</i>	<u>10/23/95</u>
<i>Completion of essential modification</i>	<u>1/10/96</u>
<i>Final certificate of occupancy issued</i>	<u>1/10/96</u>
<i>Majority of facility placed on company books</i>	<u>1/1/96</u>
<i>Remainder of facility placed on company books</i>	<u>4/1/96</u>

Facility Cost

Between April 1996 and January 1999, the claimed facility functioned as a material recovery facility. On January 1, 1999 the facility was authorized to function as a transfer station. Since that time a portion of the facility has been used as a transfer station. The cost of that portion of the facility has been identified and excluded from other facility costs as not eligible for a tax credit.

<i>Applicant Identified</i>	<u>Allowable Costs</u>	
Total Project	\$4,053,530	
Ineligible	(\$961,560)	
Claimed	<u>\$3,091,970</u>	
<i>Reviewer Identified</i>		
416B Backhoe	19,210	
*Land allocable to the facility	<u>55,973</u>	
Subtotal Eligible	3,167,153	
Reimbursement from the general contractor	(19,213)	
Fire reels and pipe	(15,673)	

Compressor	(3,199)
Welder	(2,616)
Pressure washer	(1,350)
Miscellaneous tools	(3,934)
Special storage shed	(5,099)
Fire protection	(57,607)
HVAC/Plumbing	(124,448)
Radios	(4,949)
Fuel tank	(13,495)
* Maintenance shop/employee locker room	(121,200)
Fencing	(3,348)
*Site preparation costs not directly related to the facility	(287,847)
Recalculation of allowable design, permit, and general condition costs based on adjusted facility cost	(89,919)
Specialty items	(5,645)
Exhaust fans	(3,583)
Eye wash pipe	(398)
Barriers, rail and guard	(11,746)
Drench shower	(1,122)
Air lines	(6,464)
Total	\$2,384,298

** Calculations based upon square footage*

The Department identified ineligible costs for items as listed above because they do not contribute substantially to recycling. A cost summary accompanied the application. The accounting firm of Boldt, Carlisle & Smith, LLC reviewed the underlying documentation of project costs. Symonds, Evans & Larson, P.C. performed the accounting review on behalf of the Department.

Facility Cost Allocable to Pollution Control

Willamette Resources, Inc., the facility location, is a subsidiary of Waste Control Systems, Inc., the applicant. Willamette Resources was incorporated to operate the facility and to simplify the accounting and reporting requirements but Waste Control Systems files the consolidated tax return. In addition to Willamette Resources, Waste Control Systems operates Albany Disposal, Lebanon Disposal, Dallas Disposal, Corvallis Disposal, United Disposal, Grants Pass Disposal, Capital Recycling and Disposal, Agritech, Keller Drop Box, Valley Landfills, Source Recycling, Peltier Real Estate, BIO MED, and Total Transfer and Storage.

The Department only included income and expenditures for Willamette Resources, Inc. when considering the return on investment in the facility. The Department did not need to review the facility as integral to the operation of Waste Control Systems' business because the percentage allocable to pollution control is zero percent. The following factors applied:

Factor	Applied to This Facility
ORs 468.190(1)(a) Salable or Usable Commodity	The claimed facility produces salable and useable product of real economic value and is competitive with an end product produced in

ORS 468.190(1)(b) Return on Investment

another state.

The useful life of the facility used for the return on investment consideration is 25 years. The applicant estimated revenue related only to commodity sales in computing the return on investment. The ROI was recalculated utilizing **actual operating results** related to the commodity sales and tipping fees, and adjusted for excludable expenses, such as, depreciation of interest for the facility from July 1, 1996 through December 31, 1998.

When adjusted for all ineligible costs and income and expenses generated from ineligible activities the applicants average annual cash flow is \$632,764. This results in a return on investment factor of 3.8 ($\$2,384,298 \div \$632,764$) and a Facility ROI of 26%. Since the Facility ROI is greater than the National ROI of 5.2 from Table 2, the portion of the **facility cost allocable to pollution control is 0%**.

ORS 468.190(1)(c) Alternative Methods

No alternative investigated

ORS 468.190(1)(d) Savings or Increase in Costs

No savings or increase in costs.

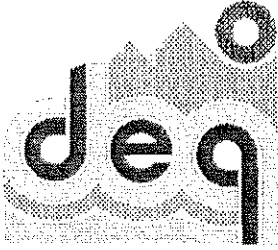
ORS 468.190(1)(e) Other Relevant Factors

The costs of the facility included in the application did not separate, or allocate, all of the transfer station- related costs for the portion of the building (\$14,807) and scales (\$15,509) that are used in connection with transfer station activities.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. The facility has a DEQ solid waste disposal site permit #435.

Reviewers: William R Bree, DEQ
Maggie Vandehey, DEQ
Independent Accountant's Report provided by Symonds, Evans & Larson, P.C.



Director's
Recommendation: **DENIAL –Ineligible Facility**

Applicant **TOC, Inc. Tualatin Jiffy Lube**
Application No. **5154**
Claimed Facility Cost **\$5,695**
Percentage Allocable **0%**
Useful Life **3 years**

**Tax Credit
Review Report**

EQC 9909

**Pollution Control Facility: Solid Waste
Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a S corporation operating as a recycling service. Their taxpayer identification number is 93-1232326 and their address is:

**14885 SW 100th Ave.
Tigard, OR 97224**

Facility Identification

The certificate will identify the facility as:

A Black Gold Sun II used oil recovery burner

The applicant is the owner of the facility located at:

**19310 SW Mohave Ct.
Tualatin, OR 97062**

Technical Information

The claimed facility recovers heat from used oil for hot water and space heating.

This facility is not eligible for tax credit. Under provisions of OAR 340-016-0010(7)(b) burning of oil is excluded from eligibility for tax credit.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **equipment** is **not** to prevent, control or properly dispose of used oil. The applicant does not use the equipment exclusively for pollution control but as a source of energy to heat their water.

ORS 468.155 (1)(b)(D) The claimed facility does **not** use a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005. OAR 340-016-0010(7)(b) specifically excludes the burning of waste from the definition of a material recovery process. It states "The material recovery process does not include a processes that burns waste to produce energy or to reduce the amount of waste."

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	02/08/1999
<i>Application Substantially Complete</i>	7/26/1999
<i>Construction Started</i>	11/03/1998
<i>Construction Completed</i>	11/03/1998
<i>Facility Placed into Operation</i>	11/03/1998

Facility Cost

Facility Cost	\$5,695
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Insignificant Contribution ORS 468.155(2)(d)	\$ -
Ineligible Costs	\$ -
Eligible Facility Cost	\$5,695

The facility cost does not exceed \$50,000. Therefore, an independent accounting review was not required. Invoices and cancelled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. Therefore, according to ORS 468.190(3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

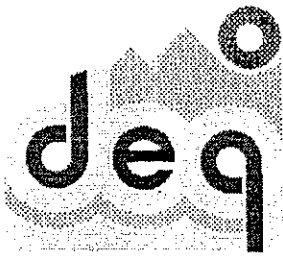
Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	This oil burned does not produce a salable or usable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 3 years. There was no calculation of return on investment.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 0%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility:

Reviewers: William R Bree



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **DENY – Ineligible Facility**

Applicant	Sabroso Corporation
Application No.	5197
<u>Claimed Facility Cost</u>	\$32,062
<u>Claimed Percentage Allocable</u>	100%
Useful Life	7 years

Pollution Control Facility: Solid Waste/Water Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **an S corporation**

Business: **Food Processor**

Taxpayer ID: **93-0476694**

The applicant's address is:

PO Box 129

Medford, OR 97501

Facility Identification

The facility is identified as:

**One Tennant floor sweeper/scrubber model
8200 serial #8200-6029 to remove debris from
floors & outside operations lots**

The applicant is the owner of the facility located
at:

**690 S Grape Street
Medford, OR 97501**

Technical Information

This sweeper is used to collect debris (fruit juice, wood particles, dirt, etc.) from the floors and outside operations lot. The applicant stated that this activity prevents the debris from entering the storm sewer system and reduces the potential for this material to contaminate or mix with wastewater leaving the facility. The sweeper is used during the processing season and the sweepings are disposed of in the landfill, sanitary sewer or through land application.

Eligibility

ORS 468.155 (1)(a) The applicant claimed the **principal purpose** of this **new sweeper** is to prevent, control or reduce water pollution though they claimed it as a solid waste facility.

A control (sweeper) was not required by DEQ or EPA; therefore, the sweeper does not meet the principal purpose portion of the definition of a pollution

control facility. The sweeper does not qualify as a sole purpose facility because its exclusive purpose is not pollution control but to provide a clean work environment inside and outside of the plant.

OAR 468.155 (1)(b)(D) The claimed facility does **not** use a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

OAR 468.155 (1)(b)(A) The water pollution control was **not** accomplished by the disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005;

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>05/03/1999</u>
<i>Application Substantially Complete</i>	<u>05/18/1999</u>
<i>Construction Started</i>	<u>05/01/1998</u>
<i>Construction Completed</i>	<u>05/01/1998</u>
<i>Facility Placed into Operation</i>	<u>05/01/1998</u>

Facility Cost

Facility Cost	\$32,062
Ineligible Costs include maintenance, operation, or repair of a facility, including spare parts OAR 340-016-0070(3)(p)	- \$32,062
Eligible Facility Cost	<u>0</u>

The facility cost does not exceed \$50,000. An independent accounting review was not required. The applicant did **not** provide adequate documentation of the cost of the claimed facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Since the facility is does not meet the eligibility requirements, the percentage of the facility cost allocable to pollution control is 0%.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility is 7 years. No gross annual revenues or savings associated with this facility were reported.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree, DEQ
Maggie Vandehey, DEQ



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **DENIAL – Ineligible Facility**

Applicant	Sabroso Corporation
Application No.	5199
Claimed Facility Cost	\$9,914
Eligible Facility Cost	\$0
Claimed Percentage Allocable	100%
Useful Life	5 years

Pollution Control Facility: Solid Waste/Water

Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **an S corporation**

Business: **a food processor**

Taxpayer ID: **93-0476694**

The applicant's address is:

Sabroso Corporation

PO Box 129

Medford, OR 97501

Facility Identification

The certificate will identify the facility as:

Replaced worn screen section on the waste water pretreatment Hycor rotary screen device.

The applicant is the owner of the facility located at:

**690 S Grape Street
Medford, OR 97501**

Technical Information

The applicant claimed the replacement of the worn screen section on the wastewater pretreatment Hycor rotary screen device – model # RSA 2572, serial number 0010351 worn section of screen on a Hycor rotary screen. This screen keeps solid material from entering the sanitary sewer system

Eligibility

OAR 340-016-0070 (3)(p) Ineligible Costs. The applicant and the Department shall reduce the facility cost by any ineligible costs... Ineligible costs include but are not limited to: ...Maintenance, operation, or repair of a facility, including spare parts;

ORS 468.155 (1)(a) The applicant claimed the **principal purpose** of this **replacement screen** is to prevent, control or reduce water pollution though they claimed it as a solid waste facility.

The replacement screen was not required by DEQ or EPA; therefore, it does not meet the principal purpose portion of the definition of a pollution. However, the screen's sole purpose is to prevent water pollution.

ORS 468.155 The applicant claimed the facility under solid waste. The facility does **not** use a

(1)(b)(D) material recovery process that obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	05/03/1999
<i>Application Substantially Complete</i>	05/18/1999
<i>Construction Started</i>	04/01/1998
<i>Construction Completed</i>	08/01/1998
<i>Facility Placed into Operation</i>	08/01/1998

Facility Cost

Facility Cost	\$9,914
Ineligible Costs include maintenance, operation, or repair of a facility, including spare parts OAR 340-016-0070(3)(p)	-\$9,914
Eligible Facility Cost	0

The facility cost does not exceed \$50,000. An independent accounting review was not required. The applicant did **not** provide adequate documentation of the cost of the claimed facility.

Facility Cost Allocable to Pollution Control

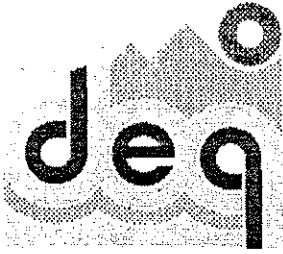
The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Since the screen is not an eligible facility, the percentage of the facility cost allocable to pollution control is **0%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility is 7 years. No gross annual revenues or savings associated with this facility were reported.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree
Maggie Vandehey, DEQ



Tax Credit Review Report

EQC 9909

Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

Applicant Identification

Organized As: **an S corporation**

Business: **Food Processor**

Taxpayer ID: **93-0476694**

The applicant's address is:

PO Box 129

Medford, OR 97501

Facility Identification

The certificate will identify the facility as:

**One Supera Combo Box portable solid waste
land application spreader serial #0994 20980
39002**

The applicant is the owner of the facility located
at:

690 S Grape Street

Medford, OR 97501

Technical Information

This equipment is used to spread fruit processing waste products on agricultural land.

Eligibility

ORS 468.155 (1)(a) The applicant claimed **principal purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155 (1)(b)(D) The claimed facility does **not** use a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Director's
Recommendation: **DENY – Ineligible Facility**

Applicant **Sabroso Corporation**
Application No. **5200**
Facility Cost **\$24,643**
Percentage Allocable **100%**
Useful Life **10 years**

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

<i>Application Received</i>	<u>05/03/1999</u>
<i>Application Substantially Complete</i>	<u>05/18/1999</u>
<i>Construction Started</i>	<u>08/01/1998</u>
<i>Construction Completed</i>	<u>11/01/1998</u>
<i>Facility Placed into Operation</i>	<u>11/01/1998</u>

Facility Cost

Facility Cost	\$24,643
Salvage Value	\$ -
Government Grants	\$ -
Other Tax Credits	\$ -
Eligible Facility Cost	0

The facility cost does not exceed \$50,000. An independent accounting review was not required. The applicant did **not** provide adequate documentation of the cost of the claimed facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. The facility is **not eligible** for solid-waste pollution-control tax credit certification; therefore, the percentage of the facility cost allocable to pollution control is **0%**.

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility is 10 years. No gross annual revenues or savings associated with this facility were reported.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree

Attachment D

Transfers

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
POLLUTION CONTROL FACILITY CERTIFICATE

Certificate No: 3084
Date of Issue: 4/23/93
Application No: T-3995

ISSUED TO: F & Z Rentals Co.
P.O. Box 325
Gresham, OR 97030

LOCATION OF POLLUTION CONTROL FACILITY:
16431 S.E. Foster Rd.
Portland, OR 97030
Facility No. 6923

ATTENTION: Darrell Fleming

AS: LESSEE OWNER INDIV PARTNER CORP NON-PROFIT CO-OP

DESCRIPTION OF POLLUTION CONTROL FACILITY:

Installation of two fiberglass and three STI-P3 tanks, fiberglass piping, spill containment basins, tank monitor system, line leak detectors, overfill alarm, monitoring wells, sumps, Stage II vapor recovery and automatic shutoff devices.

TYPE OF POLLUTION CONTROL FACILITY:

AIR NOISE WATER SOLID WASTE HAZARDOUS WASTE USED OIL

DATE FACILITY COMPLETED: December 1, 1992

PLACED INTO OPERATION: December 1, 1992

ACTUAL COST OF POLLUTION CONTROL FACILITY: \$127,826.00

PERCENT OF ACTUAL COST PROPERLY ALLOCABLE TO POLLUTION CONTROL: 90%

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the facility described herein was erected, constructed or installed in accordance with the requirements of subsection (1) of ORS 468.165, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or noise pollution or solid waste, hazardous wastes or used oil, and that it is necessary to satisfy the intents and purposes of ORS Chapters 454, 459, 467 and 468 and rules adopted thereunder.

Therefore, this Pollution Control Facility Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing the type of pollution as indicated above.
2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.
3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

NOTE: The facility described herein is not eligible to receive tax credit certification as an Energy Conservation Facility under the provisions of Chapter 512, Oregon Law ~~1979~~ if the person issued the Certificate elects to take the tax credit relief under ORS 316.097 or 317.072.

Signed: William W. Wessinger (William W. Wessinger, Chairman)

Approved by the Environmental Quality Commission on the 23d day of April, 1993.

CERTIFICATE TRANSFER

From:

To:

Signed: _____ (William W. Wessinger, Chairman)

Approved by the Environmental Quality Commission on the ____ day of _____, 1993.

DEPARTMENT OF ENVIRONMENTAL QUALITY
UST POLLUTION CONTROL TAX CREDIT PROGRAM

REQUEST FOR TRANSFER OF TAX CREDIT

Please provide information asked for below and attach a copy of your tax credit certificate.

Tax Credit Certificate No. 3084

Tax Credit Application No. T-3995

DEQ fac ID. 6923

Name and address of current tax credit holder:

Name F & Z Rentals Co.

Address P.O. Box 325

Gresham, OR

97030

Name and address to transfer tax credit to:

Name Jim & Harold Phiska

Address P.O. Box 607

Gresham, OR 97030

X
Signature of current tax credit holder

Carolyn L. Hummer
F & Z Rentals

Date of signature

2/13/99

PHONE NO. OF PERSON DEQ MAY

CONTACT REGARDING THIS REQUEST: _____

=====
Send this request to:

Attn: ~~Barbara Anderson~~ M. Vandenberg

DEQ

811 SW 6th

Portland, OR 97204

(use enclosed
envelope)

Phone: (503) 229-5870 or toll-free in Oregon 1-800 452-4011. FAX: (503) 229-6954.

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 2602
Date of Issue 6/14/91
Application No. T-3498

POLLUTION CONTROL FACILITY CERTIFICATE

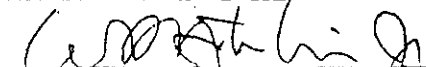
Issued To: Kirsch Family Farms, Inc. 4350 Mahony Road NE St. Paul, OR 97137	Location of Pollution Control Facility: 4999 Mahony Road NE St. Paul, OR 97137
As: () Lessee (x) Owner	
Description of Pollution Control Facility: Allen 851 Hay Rake Freeman Balewagon JD 945 'V' Ripper Allen 852 Hay Rake V-180 Bale Squeezer International 770 New Holland 505 Baler 80' x 200' Straw Cover Crop Disc. (1984) Storage Shed New Holland 505 Baler JD 14' Flail Mower (1985)	
Type of Pollution Control Facility: (x) Air () Noise () Water () Solid Waste () Hazardous Waste () Used Oil	
Date Facility was Completed: 7/15/90 Placed into Operation: 7/15/90	
Actual Cost of Pollution Control Facility: \$175,057.00	
Percent of Actual Cost Properly Allocable to Pollution Control: 100%	

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the facility described herein was erected, constructed or installed in accordance with the requirements of subsection (1) of ORS 468.165, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or noise pollution or solid waste, hazardous wastes or used oil, and that it is necessary to satisfy the intents and purposes of ORS Chapters 454, 459, 467 and 468 and rules adopted thereunder.

Therefore, this Pollution Control Facility Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing the type of pollution as indicated above.
2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.
3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

NOTE: The facility described herein is not eligible to receive tax credit certification as an Energy Conservation Facility under the provisions of Chapter 512, Oregon Law 1979, if the person issued the Certificate elects to take the tax credit relief under ORS 316.097 or 317.072.

Signed: 



ALDRICH
KIRBRIDE
STABONE
LLP

pleasing
our
clients...
since
1973

June 29, 1999

Maggie Vandehey
Oregon Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204-1390

RE: Kirsch Family Farms, Inc.
EIN# 93-0724358
Pollution Control Facility Credit Certificate No. 2602

Dear Ms. Vandehey,

I am writing to you based on recent inquiries to your office regarding the transfer of an existing pollution control credit (straw storage shed) from a farm corporation to its sole shareholder.

Paul Kirsch is the sole owner of Kirsch Family Farms, Inc. He personally farms his property through Kirsch Family Farms, Inc. He applied for and received a pollution control credit certificate (copy enclosed) on various pollution control facilities in 1991. Included in this certificate is a credit on the straw storage shed. The straw storage shed continues to be used exclusively for the purpose for which it was placed in service, i.e., the elimination of the need to open field burn by being able to bale the straw and remove it from the field in a timely manner.

The straw storage shed is situated on property, which is farmed and owned by Paul Kirsch. For this reason we request that the remaining portion of pollution control facility credit #2602 relating to the straw storage shed be transferred from Kirsch Family Farms, Inc. EIN# 93-0724358 to Paul J. Kirsch EIN# 541-64-3916. Attached is a summary of the original credit information including the \$76,463 of cost associated with the straw storage shed.

If you have any questions on this, please feel free to call (503) 585-7774.

Sincerely,

David F. Buck, CPA
Partner

Enclosures
cc: Paul Kirsch

Salem
1011 Commercial St. NE, Suite 120
Salem, Oregon 97301-1045
(503) 585-7774 FAX (503) 364-9405
Portland
5335 SW Meadows Rd., Suite 401
Lake Oswego, Oregon 97035-3115
(503) 620-4489 FAX (503) 624-0817
Members of Accounting Firms
Associated, Inc. (AFA)
Website: www.aafaz.com

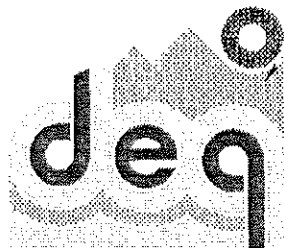
Kirsch Family Farms, Inc.
EIN#: 93-0724358
Pollution Control Credit Certificate #2602

<u>Pollution Control Facilities</u>	<u>Qualified Cost</u>
Allen 851 Hay Rake	6,000
Allen 852 Hay Rake	6,000
New Holland 505 Baler (1984)	12,200
New Holland 505 Baler (1985)	9,500
Freeman Balewagon	25,000
V-180 Bale Squeeze	21,000
JD 14' Flail Mower	7,000
JD 945 V Ripper	2,344
International 770 Cover Crop Disc	9,550
Total facilities not transferred	98,594

80' x 200' Straw Storage Shed	76,463	To be transferred to Paul Kirsch
-------------------------------	--------	----------------------------------

Total Cost of Pollution Control Facility	175,057
--	---------

Attachment E
Rejections



Tax Credit Review Report

EQC 9909

Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as distribution substation for electric power. The applicant's taxpayer identification number is 93-0256820 and their address is:

**121 SW Salmon Street
Portland, OR 97204**

Technical Information

The claimed facility consists of geotextile liner, oil/water separator and associated drainage system. The site is graded such that all spilled oil will be contained and directed to the oil/water separator. The vault allows the passage of water while stopping the flow of oil. The drainage is discharged into a ditch and eventually to the Salmon Creek. The system allows adequate time for a crew to be dispatched to the site and do cleanup.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **new installation** is to prevent a substantial quantity of water pollution.
- ORS 468.155 (1)(b)(A) The prevention is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005

Director's
Recommendation: **Reject – Untimely Filing**

Applicant	Portland General Electric Company
Application No.	5066
Claimed Facility Cost	\$66,785
Claimed Percentage Allocable	100%
Useful Life	10 years

Facility Identification

The certificate will identify the facility as:

A lined oil spill containment system.

The applicant is the owner of the facility located at:

**Blue Lake Substation
22700 NE Marine Drive
Troutdale, OR 97060**

Timeliness of Application

The applicant missed the filing requirements of ORS 468.165 (6) because the application was submitted two-years after the construction was completed. The applicant concurred that the substation was "switched on" more than two-years prior to filing the application.

<i>Application Received</i>	09/04/98
<i>Application Substantially Complete</i>	6/18/99
<i>Construction Started</i>	07/15/96
<i>Construction Completed</i>	08/02/96
<i>Facility Placed into Operation</i>	08/02/96

Facility Cost

Facility Cost	\$66,785
Ineligible Costs	(66,785)
Eligible Facility Cost	\$0

Facility Cost Allocable to Pollution Control

Since the facility cost exceeds \$50,000, according to ORS 468.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

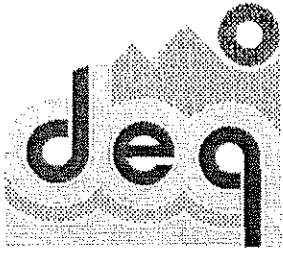
Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility. There is no return on investment.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Maggie Vandehey



Tax Credit Review Report

EQC 9909

Director's
Recommendation: **Reject – Untimely Filing**

Applicant **Portland General Electric Company**
Application No. **5067**
Claimed Facility Cost **\$132,217**
Claimed Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as distribution substation for electric power. The applicant's taxpayer identification number is 93-0256820 and their address is:

**121 SW Salmon Street
Portland, OR 97204**

Facility Identification

The certificate will identify the facility as:

A lined oil spill containment system

The applicant is the owner of the facility located at:

**St. Mary's West Substation
1785 SW 158th
Beaverton, OR 97006**

Technical Information

The claimed facility is an oil spill containment system consisting of a geotextile liner, oil/water separator and associated drainage piping system. The site is graded such that the oil/water separator will collect drainage. Water is allowed to flow while stopping the flow of oil. The drainage is discharged to the Cedar Mill Creek. The containment system allows enough time for a crew to be dispatched to the site and do cleanup of the spill.

Eligibility

- ORS 468.155 (1)(a) The **sole purpose** of this **installation** is to prevent a substantial quantity of water pollution.
- ORS 468.155 (1)(b)(A) The prevention is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005

Timeliness of Application

The applicant missed the filing requirements of ORS 468.165 (6) because the application was submitted two-years after the construction was completed. The applicant concurred that the substation was "switched on" more than two-years prior to filing the application.

<i>Application Received</i>	09/08/1998
<i>Application Substantially Complete</i>	05/09/1999
<i>Construction Started</i>	05/01/1996
<i>Construction Completed</i>	06/30/1996
<i>Facility Placed into Operation</i>	09/11/1996

Facility Cost

Facility Cost	\$132,217.00
Ineligible Costs	(\$132,217.00)
Eligible Facility Cost	\$0

Pricewaterhouse Coopers LLP provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (1), the facility cost exceeds \$50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility. There is no return on investment.
ORS 468.190(1)(c) Alternative Methods	Alternatives investigated include transformer pits, sand filter system and soil removal and cleanup. These were found expensive
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: RCDulay
Maggie Vandehey

Marine Engines

Impacts on the Environment and
Voluntary Policy Options to
Encourage the Replacement of
Carbureted 2-stroke Marine Engines

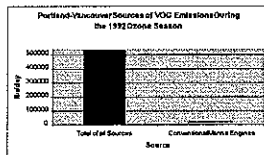
presented by
Mindy Correll
Oregon Department of Environmental Quality

Purpose

- Report on the significance of marine engine exhaust impacts on Oregon's environment
- Discuss a spectrum of policy options for encouraging the replacement of CME

Impacts on Air Quality

- CME exhaust contributes 3.8% of total VOC to Portland-Vancouver airshed
– this is significant
- Portland is an area of concern with regards to the NAAQS

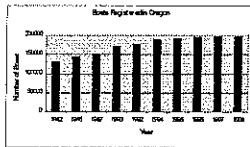


Impacts to Water Quality

- 25% to 30% fuel is exhausted unburned
- HC can persist in water for a period of time
- HC can be toxic to fish
- Ambient concentrations are site-specific
- EPA stated that CME exhaust has a small, but negative, impact on water quality and fish

Boats in Oregon

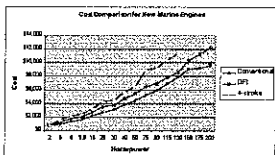
- Total number of boats registered increased by approximately 4% per year until 1996
- 197,654 in 1998
- Personal watercraft registration increased 17 fold between 1988 and 1998



* Approximately 95% of total boats registered in Oregon are motorized.

Why People Buy CME

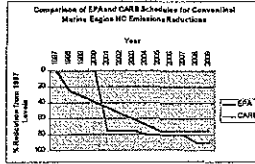
- Simple Technology
- Easy Maintenance
- Lightweight
- Excellent Power-to-Weight Ratio
- Generally Cost Less



*All numbers are estimated every year registered total price based on a comparison of information provided by various manufacturers.

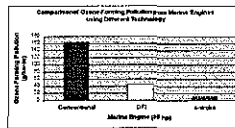
Legislative Context

- EPA's Final Rule
 - 75% reduction in HC+NOx emissions by 2006
- Clean Air Act
 - states may not regulate marine engines
- CARB's Rule
 - 75% reduction by 2001
 - 90% by 2008



Basis of EPA and CARB's Rules

- Ozone is of concern in urban areas in the summer
- DFI and 4-stroke engines emit 75% to 90% less ozone-forming pollutants than CME



Basis of Rules Continued

- All marine engines exhaust directly to the water
 - 25% to 30% of the fuel used in a CME is exhaust to the water unburned
- When properly maintained a marine engine can last for approximately 25 yrs
 - Effective at reducing marine engine emissions in the long-term (roughly 30 years)

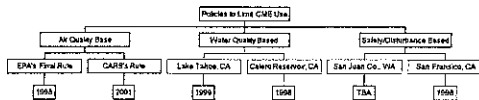
Manufacturing Industry Views

- DFI and 4-stroke marine engines are more fuel efficient
- Technology turn-over will take time and money
- EPA's final schedule is very fast
- CARB's final schedule is unachievable

Results of Research

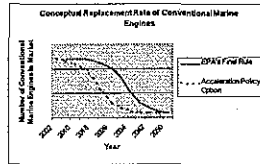
- Conventional marine engines have a significant impact on air quality and an unquantified impact on water quality.
- EPA and CARB's rules look at new technology entering the market but do not address CME currently in use.

Policies in Other Places



Policy Option Objectives for Oregon

- Address CME currently in use by encouraging CME owners to:
 - purchase DFI or 4-stroke engines
 - retire CME before the life of the engine is over



Policy Options

- | | |
|----------------------|----------------------|
| <u>Voluntary</u> | <u>Regulatory</u> |
| Educational Campaign | Engine Certification |
| Buy-Back Program | Surcharge |
| Product Bundling | CARB's Rule |
| Tax Credits | Permitting Program |

Educational Campaign

- Low burden on public
- Opportunities for partnerships
- Low costs to administer
- Effectiveness depends on cost of engines and relying on social obligation
- Does not ensure retirement of CME

Buy-Back

- Low burden on public
- Monetary incentive increases effectiveness
- Opportunity for partnerships
- Ensures disposal of old CME
- Costly
- Effectiveness depends on amount of incentive and promotion

Product Bundling

- Low burden on public
- Provides a monetary incentive
- Opportunities for partnerships
- Does not encourage people to retire their CME
- Effectiveness depends on value of product and promotion

Tax Credits

- Low burden on public
- Offers a monetary incentive
- Does not directly encourage people to retire their CME but could
- Requires legislative action
- Effectiveness depends on amount of credit offered and promotion

Marine Engine Certification

- Deters resale and continued use of used CME
- Moderate burden on public
- Difficult to monitor and enforce
- Requires rule making
- May not be allowable under CAA
- Effectiveness depends on agency actions to monitor program

Surcharge

- Decreases cost differential between CME and DFI or 4-stroke marine engines
- Moderate burden on public
- Requires legislative action
- Does not ensure retirement of CME
- Effectiveness depends on agency actions to encourage retirement

CARB's Rule

- Limits availability of CME
- Does not encourage retirement of CME
- Requires rule-making and monitoring
- Very effective at reducing emissions in the long-term (roughly 25 years)
- Moderately effective at reducing emissions in the short-term

Permitting Program

- Skippers for Clean Oregon Waters?
HB#3621
- Permit Fees could influence purchasing behavior
- Opportunities for partnerships
- Costly to public and government
 - fees could be used to fund program
- Effectiveness depends on amount of fee

Estimated Policy Effectiveness

Type of Policy	Policy Option	Changing Purchasing Behavior	Encouraging Early Retirement	Social Acceptability
Voluntary	Education	Low	Low	High
	Buy-Back	Moderate	Moderate	Moderate
	Product Bundling	Moderate	Low	High
	Tax Credit	Moderate	Moderate	Moderate
Regulatory	Certification	Moderate	Moderate	Low
	Surcharge	Moderate	Low*	Low
	CARB	High	Low*	Moderate
	Permitting	Moderate	Moderate	Low

*Because the cost of CME or limited data availability only, some CME cannot be policy options for new, more expensive technology.

Summary

- CME have a significant impact on air quality
- CME have a negative, but unquantified, impact on water quality

Summary Continued

- EPA is regulating new marine engines entering the market
- CARB is influencing and soon will be regulating new marine engines entering the market
- EPA and CARB's rules are effective at reducing marine engine emissions in the long-term (roughly 25 years)

Summary Continued

- CME currently in use have not been targeted
- Policy options targeted at CME currently in use are more effective at reducing emissions in the short-term (5 years)
- Policy options to target CME currently in use are complicated by the cost of new marine engines



Outboard Marine Corporation

Sept 30, 1999

Ms. Melinda Correll
Oregon Department of Environmental Quality
811 SW Sixth Ave.
Portland, OR 97204-1390

Dear Mindy,

Thank you for recently sending me your final report "**Carbureted 2-Stroke Marine Engines - Impacts on the Environment and Options to Encourage Their Replacement**". On July 28th, Outboard Marine submitted comments as requested by Oregon DEQ regarding the draft version of the above report. Contained in OMC's July 28th comments were a number of issues, which OMC believed to be covered in such a way as to possibly be misinterpreted by the members of the Environmental Quality Commission. The final version of the 2-Stroke Marine Engine report clearly contains many revisions, which reflect the concerns expressed to you by OMC and other manufacturers. We recognize that this issue is complicated and we appreciate your efforts to understand the issues and to make changes to your draft report.

OMC, however, still has concerns about several of the findings listed in the opening section of the final version of this paper and feel the need to bring these concerns to your immediate attention. We realize that the final version of this report has already been sent to the EQC members and that your presentation to the EQC is tomorrow. OMC requests that the concerns expressed in this letter be reflected to the greatest extent possible in your oral comments of your October 1st presentation.

OMC also requests that this letter be included in the minutes of the October 1, 1999 meeting to formally document OMC's outstanding concerns. Alternatively, if the concerns expressed by OMC cannot be adequately incorporated into tomorrow's meeting due to the very short timeframe, OMC is willing to present its concerns to the EQC members in a more appropriate and less hurried timeframe. Please contact me at your earliest opportunity to discuss how this can best be accomplished.

A handwritten signature in black ink, appearing to read "ALBRG". The signature is fluid and cursive.

for
Outboard Marine Corporation

Outboard Marine Corporation Comments Regarding Oregon Department of Environmental Quality's Final Report – **“Carbureted 2-Stroke Marine Engines Impacts on the Environment and Voluntary Policy Options to Encourage Their Replacement”**

Outboard Marine Corporation is concerned that several of the findings contained in the subject final report do not adequately reflect and explain important facts relating to the findings and that this may lead to an inaccurate understanding of these important issues by members of Oregon's Environmental Quality Commission. In order to avoid misunderstanding of these very important issues, OMC respectfully requests that the additional information provided below be recognized and understood by Oregon DEQ staff and members of the EQC. Given that the subject report will serve as the basis for future policy decisions, Outboard Marine Corporation believes that further review and modification of the findings contained in this report is necessary.

The findings of concern to OMC are listed below (highlighted in red) along with OMC's specific concerns and suggestions.

- **Conventional marine engines exhaust 25% to 30% of their fuel, unburned, directly to the water.**

OMC believes that this statement is inaccurate and potentially misleading. The studies cited in this report to support this assertion are not representative of actual conditions of boat operation and therefore should be further qualified. Due to the physical conditions associated with exhaust gases discharged by an outboard motor, it is **impossible** for all of the emitted exhaust to make contact with the water. While it is correct to say that, on average, 25% to 30 % of the fuel consumed by a conventional outboard motor is discharged with the exhaust, it is simply not accurate to state or imply that all of this discharged fuel goes into the water. While the exhaust from an outboard motor is discharged under the water's surface, the majority of the exhaust, along with the unburned fuel, immediately rise to and break through the water's surface and go into the air without any contact with the water.

- **Laboratory studies show that at low concentrations marine engine exhaust can cause genetic and reproductive defects in fish and at high concentrations the exhaust can be toxic to both fish and zooplankton**

As previously stated in our comments of July 28th, we believe that this statement is inaccurate. While the cited studies do show an effect on the rate of development of some forms of aquatic life exposed to low concentrations of outboard motor exhaust, OMC is not aware of studies, which conclude that low concentrations cause genetic and reproductive defects.

- **EPA's Final Rule on conventional marine engines requires a 75% reduction in HC+NOx (hydrocarbon plus nitrogen oxide) emissions from unregulated**

levels, by 2006. Emission standards took effect in 1998, requiring reductions by at least 8.3% per year until 2006. This reduction is a corporate average that affects only new marine engines being introduced into commerce.

While it is accurate to state that EPA's marine regulation does not specifically require existing technology engines to reduce emissions on a per engine basis, it is inaccurate to infer that it has no effect on conventional engines. There are a number of requirements in EPA's rule, which apply to the existing technology engines to ensure that emissions from this type of engine are limited. More importantly, the primary intent and effect of EPA's regulation is to require that existing technology engines be almost completely removed from the U.S. market place by model year 2006.

- **The California Air Resources Board has adopted regulations for conventional marine engines based on air quality concerns. They are expecting the Governor's Office to approve the regulations in November 1999, at which time it will go to EPA for approval. California's regulations require a 75% reduction in HC+NOx emissions, from unregulated levels, by 2001, 80% by 2004, and a 90% reduction by 2008. These regulations are also corporate averages that affect only new marine engines being introduced into commerce.**

Refer to previous comment regarding the effect of USEPA's rule on the phase out of existing technology engines by model year 2006. This same comment applies to the CARB rule.

- **Manufacturers have begun to implement DFI 2-stroke and 4-stroke technology and expect the technology entering the market to turn over at a steady rate.**

OMC suggests addition of the following sentence "By 2006, most new engines sold in the U.S. will be DFI 2-strokes or 4-strokes."

- **Honda uses only 4-stroke technology and is currently in compliance with both EPA's and CARB's final standards for marine engines.**

OMC believes it unnecessary and unfair to include specific reference to a single engine manufacturer, without recognizing other manufacturers product's, which offer equal or superior environmental benefits.

- **Policies and regulations adopted in other places have not been in place long enough to gauge their effectiveness.**


As stated in OMC's July 28th submission to Oregon DEQ, this statement is not accurate. The Bodensee regulations have had a clear negative impact on the environment as well as individual boaters in the areas surrounding Lake Constance. As previously mentioned, the Bodensee regulations failed to consider the consequences of mandating such severe regulations and indeed spawned an underground industry solely aimed at reproducing service parts for the older engines.

In effect, this allows the older higher emitting engines to continue operation for a far longer period of time that would otherwise be the case. As a result, the Bodensee regulations effectively discouraged the trade-in of existing engines for the new low emission models. OMC believes that it is essential to carefully study and consider new regulations to avoid unintended negative consequences.

State of Oregon
Department of Environmental Quality

Memorandum

Date: September 13, 1999

To: Environmental Quality Commission
From: Langdon Marsh, Director 
Subject: Agenda Item C
Informational Report on Carbureted 2-stroke Marine Engines, their Impact on the Environment and Voluntary Policy Options to Encourage their Replacement

Statement of Purpose

DEQ has prepared an informational report, per the Commission's request, on the significance of marine engine exhaust impacts on Oregon's environment. Further, the report outlines voluntary policy options and their possible effectiveness. Agenda Item C serves as a summary of the report.

Background

Note: This background information is available in the DEQ Pollution Prevention Team report (see Attachment).

In February 1999, Skippers for Clean Oregon Waters petitioned EQC to regulate carbureted 2-stroke marine engines. The Commission denied the petition and requested DEQ to research the impacts of marine engines on the environment and possible voluntary policy options to accelerate their replacement.

Intended Future Actions

This report is intended to inform the Commission on the impacts of marine engines on the environment and voluntary policy options for phasing in new technology.

Department Recommendations

This report is intended to inform the Commission on the impacts of marine engines on the environment and voluntary policy options for phasing in new technology.

Memo To: Environmental Quality Commission

Agenda Item C

Page 2

Attachments

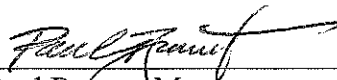
- A. Carbureted 2-stroke Marine Engines: Impacts on the Environment and Voluntary Policy Options to Encourage Their Replacement, Oregon DEQ Pollution Prevention Team, September 1999.

Reference Documents (available upon request)

See list provide in Attachment.

Approved:

Section:



Paul Burnet Manager
Pollution Prevention Team
Office of the Director

Report Prepared By: Mindy Correll
Phone: (503) 229-5672

Date Prepared: September 13, 1999

Carbureted 2-stroke Marine Engines
Impacts on the Environment and Voluntary Policy
Options to Encourage Their Replacement

Final Report
September 1999

Prepared by:
Mindy Correll
Pollution Prevention Team
Department of Environmental Quality
811 6th Ave., Portland, OR 97202

Table of Contents

1. Introduction	1
2. Purpose	2
3. Summary of Findings	3
4. Section 1: Conventional Marine Engines and Their Impacts on the Environment	
A. Legislative Context	6
B. Conventional Marine Engine Impacts on Air Quality	8
1. Figure 1: Portland-Vancouver Sources of VOC Emissions During the 1992 Ozone Season	9
2. Figure 2: Boats Registered in Oregon	10
3. Figure 3: Monthly Boat Use for 1995	10
C. Conventional Marine Engine Impacts on Water Quality	11
D. Conventional Marine Engine Impacts on Fish and Wildlife	13
E. Marine Engine Technology	14
1. Figure 4: Comparison of Ozone Forming Pollution from Marine Engines using Different Technology	16
2. Figure 5: Marine Engine Technology Cost vs. Horsepower	17
F. Conventional Marine Engine Policies in other Places	18
1. Policies Based on Air Quality	18
2. Policies Based on Water Quality	19
3. Policies Based on Safety and Nuisance	20
4. Results of Policies	21
5. Figure 6: Policies in Other Places	22
5. Section 2: Policy Options for Oregon	23
1. Figure 7: Conceptual Replacement Rate	24
A. Voluntary Policy	25
B. Incentive Policy	27
1. Buy-Back	27
2. Product Bundling	29
3. Tax Credits	29
C. Certification Program	30
D. Surcharge Policy	32
E. CARB's Rule	22
F. Permitting Program	33
G. Combination of Policies	35
H. Figure 8: Comparison of Policy Options	36
5. Works Cited	38

Introduction

On February 20, 1999, Skippers for Clean Oregon Waters (SCOW) petitioned the Environmental Quality Commission (EQC), which oversees the Department of Environmental Quality (DEQ), to review DEQ's Administrative Rules and determine if it would be appropriate to regulate carbureted 2-stroke marine engines under existing Oregon statutes limiting air and water pollution. The petitioner requested the accelerated phase-out of carbureted 2-stroke marine engines, hereafter referred to as conventional marine engines, on environmentally sensitive waterways and sources of drinking water. The petitioner further recommended that within the next 10 years conventional marine engines should make up less than 5% of all engines in use in Oregon.

An option the petitioner suggested for regulating marine engines was a permitting program for outboard motors. The Clean Water Act defines a "point source" of pollution to include a vessel or other floating craft (Senate Committee on Environment and Public Works, 1988). Based on this act, a permitting program for marine engines could be required. However, under the National Pollution Discharge Elimination System the effluent from a properly functioning marine engine is excluded from requiring a permit because it is incidental to the normal operation of a vessel (Office of the Federal Register, 1998).

Another option suggested was a penalty for polluting. Under ORS 486B.305 oil entering into water of the state from a floating craft of any kind is prohibited (Legislative Counsel Committee, 1997). To apply this to recreational marine engines would require rules for a civil penalty that would be appropriate for this type violation.

Due to the complications of a permitting program or a civil penalty action, the EQC denied the petition. The EQC then requested that DEQ research marine engines and their effects on water and air quality to determine whether it would be appropriate to enact a program to accelerate the phase-in of new marine engine technology. The Pollution Prevention (P2) Team was asked to conduct the research because marine engine exhaust affects more than one media - it affects both air and water quality.

Purpose

The purpose of this document is to report the findings made by the P2 Team on the significance of marine engine exhaust impacts on Oregon's environment and whether a program to accelerate the phase-in of new technology is warranted. Further, this document will present voluntary policy options for and their possible effectiveness.

The issue of marine engines is very broad and complicated. Therefore, the P2 Team narrowed the scope of research by choosing four groups of questions to determine the impact of conventional marine engines. These questions are:

1. What levels of pollution are released to the water and air by marine engine exhaust? Do these levels adversely impact water quality, fish, aquatic plants, wildlife and/or air quality? How significant are the impacts? Are there any special concerns regarding the salmon listings?
2. How many conventional marine engines, direct fuel injection 2-stroke engines (DFI 2-stroke) and 4-stroke engines are registered in Oregon? How has the registration changed over the past 10 years? What percentages of registered boats are new versus used? What are the boating densities for different bodies of water in Oregon?
3. Why do people buy conventional marine engines? How does the manufacturing industry feel about DFI 2-stroke and 4-stroke technology versus the conventional technology? What are the statistics on horsepower and weight versus cost for new engines? Given the Federal emission standards, are all manufacturers beginning to build 4-stroke engines?
4. What have other cities, counties or states done to address this issue? Did they base their actions on air quality, water quality or safety/nuisance? How effective have the new programs/policies/regulations been at substituting 4-stroke engines for the conventional ones?

The P2 Team and DEQ are aware that the issue of marine engines is relatively new and the amount of information with which to answer these questions is lacking. Therefore, some questions will remain unanswered at this time and will require more research.

Summary of Findings

The findings reported in this document are summarized based on the questions asked by the P2 Team. The policy options for Oregon can be found in Section 2. The summarized findings are:

- Conventional marine engine exhaust contains volatile organic compounds (VOC) and nitrogen oxides (NOx), among other air pollutants. These two compounds, plus sunlight, cause ground level ozone or smog.
- Conventional marine engine exhaust contributes an estimated 3.8% of the total VOC recorded in the Portland-Vancouver area during the Ozone Season (1992). This is considered a significant amount.
- If Portland-Vancouver violates NAAQS standards for ground-level ozone, Oregon may have to begin using reformulated fuels, which reduce ozone-forming pollutants. MTBE is the most frequently used component of reformulated gasoline and has negative effects on water quality.
- Conventional marine engines exhaust 25% to 30% of their fuel, unburned, directly to the water.
- Conventional marine engine exhaust contains benzene (a carcinogen), ethylbenzene, toluene and xylene, all of which EPA consider priority water pollutants. Ambient studies on marine engines have shown no violations of Federal standards for these pollutants.
- Methyl tert-Butyl Ether (MTBE), an additive used to oxygenate fuel, is listed by the Environmental Protection Agency as a possible human carcinogen. Oregon currently does not use MTBE
- Laboratory studies show that at low concentrations marine engine exhaust can cause genetic and reproductive defects in fish and at high concentrations the exhaust can be toxic to both fish and zooplankton.
- According to EPA, conventional marine engines have a negative, but small, effect on water quality. Exact impacts are site specific and depend on water temperature, air temperature and boating activity.
- Direct fuel injection 2-stroke (DFI 2-stroke) and 4-stroke marine engines emit 75% to 95% less ozone-forming exhaust than conventional marine engines do for the same horsepower.
- EPA's Final Rule on conventional marine engines requires a 75% reduction in HC+NOx (hydrocarbon plus nitrogen oxide) emissions from unregulated levels, by 2006. Emission

standards took effect in 1998, requiring reductions by at least 8.3% per year until 2006. This reduction is a corporate average that affects only new marine engines being introduced into commerce.

- Under the Clean Air Act, states are prevented from regulating marine engine emissions. However, if California adopts marine engine regulations, and they are approved through the federal waiver process, other states may adopt rules identical to California's regulations. Oregon could adopt California's rules as part of the State Implementation Plan.
- The California Air Resources Board has adopted regulations for conventional marine engines based on air quality concerns. They are expecting the Governor's Office to approve the regulations in November 1999, at which time it will go to EPA for approval. California's regulations require a 75% reduction in HC+NO_x emissions, from unregulated levels, by 2001, 80% by 2004, and a 90% reduction by 2008. These regulations are also corporate averages that affects only new marine engines being introduced into commerce.
- In 1998, there were 197,634 boats (this includes personal watercraft) registered in Oregon and the number of registered boats has increased by approximately 4% per year since 1992, with a decrease in the registration rate over the past four years.
- Personal watercraft registrations have increased from approximately 800 units in 1988 to approximately 14,000 in 1998, a 17-fold increase. Currently all personal watercraft use conventional marine engines.
- People purchase conventional marine engines because the technology is simple and easy to maintain, they are lightweight thus having an excellent power-to-weight ratio, and they generally cost less than DFI 2-stroke and 4-stroke engines.
- 4-stroke engines are relatively heavier than conventional marine engines (depending on the horsepower) therefore, the technology for 4-strokes currently only exists up to 130 horsepower.
- Most of the manufacturing industry feels that they can market the new technology because it will be more fuel efficient, reduce smoke, fumes and noise, start quicker, and have better throttle response than conventional marine engines.
- Most of the manufacturing industry is concerned about the amount of time they have to turnover the technology to comply with EPA's 2006 standards because it takes considerable time and money to develop and implement the new technology. They further feel that the California Air Resources Board's 2001 time schedule is unachievable.
- Manufacturers have begun to implement DFI 2-stroke and 4-stroke technology and expect the technology entering the market to turn over at a steady rate.

- Honda uses only 4-stroke technology and is currently in compliance with both EPA's and CARB's final standards for marine engines.
- Lake Tahoe and the Calero Reservoir in California and Lake Constance in Europe have enacted policies affecting use of conventional marine engines based on water quality concerns. San Juan County in Washington, San Francisco in California, and the state of Florida have adopted regulations based on safety and nuisance concerns. The National Park Service allows National Parks to banned the use of personal watercraft based on disruption of wildlife.
- Policies and regulations adopted in other places have not been in place long enough to gauge their effectiveness.

Section 1

Conventional Marine Engines and Their Impacts on the Environment

Legislative Context

The Clean Air Act Amendments (CAA), adopted in 1990, gave EPA the authority to regulate nonroad mobile source emissions. Nonroad mobile sources include airplanes, boats and lawnmowers. In 1996, EPA conducted a Regulatory Impact Analysis and discovered that 10% of hydrocarbon (HC) emissions come from nonroad engines during the summertime in urban areas and that marine engines contributed significantly to those emissions (Office of Air and Radiation, 1996). Currently most marine engines use conventional technology. Further, it was determined that DFI 2-stroke and 4-stroke engines emit 75 to 95% less HC than conventional marine engines. In October of that year, EPA approved the Final Rule for the regulation of conventional marine engines; referred to as "spark-ignition marine engines" by EPA. The Final Rule states:

As directed under section 213 of the Clean Air Act, as amended in 1990, EPA is regulating exhaust emissions from new spark-ignition gasoline marine engines (including outboards engines, personal watercraft engines, and jetboat engines) because exhaust emissions from spark-ignition gasoline marine engines cause or contribute to ozone concentrations in more than one ozone nonattainment area. Once the program is fully implemented, manufacturers of these engines must demonstrate to EPA that hydrocarbon emissions are reduced, by 75% from unregulated levels, by testing engines.... Beginning in 1998, manufacturers of new spark-ignition marine engines used in outboards, personal watercraft, and jetboats must comply with this rule.... [These standards] should decrease hydrocarbon emissions from such engines by approximately 75% from projected baseline emission levels by the year 2025. Due to the long lives of a small portion of marine engines, EPA does not anticipate that complete fleet turnover will occur until around the year 2050 (Environmental Protection Agency, 1996).

The emission standards began in 1998 and are based on average, combined HC+NO_x (oxides of nitrogen) emissions. They require a reduction in HC+NO_x emissions, from uncontrolled levels, by at least 8.3% per year until 2006 (Environmental Protection Agency, 1996).¹

¹ Because DFI 2-stroke and 4-stroke engines emit slightly more NO_x than conventional marine engines, the combined standard allows NO_x emissions to increase from 2.0 to 6.0 g/kilowatt-hour overall.

EPA based its standards on the most promising technology: DFI 2-stroke and 4-stroke engines. Manufacturers are allowed to determine the type of technology they wish to use to comply with EPA's standards, or they may install catalytic converters. Catalytic converters however, are technically challenging to use on marine engines because the engines are enclosed in a very small space and the energy generated within them may cause the converters to over-heat. For this reason EPA did not include catalytic converters as part of the "most promising technology". The yearly emission standards are based on a corporate average standard, which is an average emission standard meaning that the manufacturer's product line of outboard and personal watercraft must comply with the emissions standards on a corporate average basis. This allows manufacturers flexibility in choosing technological options: some engines may still use conventional technology while others use 4-stroke or DFI 2-stroke, as long as the average emissions for the manufacturer meet the reduction level for each year. Manufacturers are responsible for testing the engine emissions and reporting the results to EPA. All engine models have to be certified by EPA before introduction into commerce (Environmental Protection Agency, 1996).

Under the CAA, states are prevented from regulating marine engine emissions beyond federal regulations. However, if California adopts marine engine regulations based on air quality concerns, and the regulations are approved through the federal waiver process, other states may adopt rules identical to California's regulations. Oregon could adopt California's rules in its State Implementation Plan.

In 1998, the California Air Resource Board (CARB) began to look at accelerating the phase-out of conventional marine engines. CARB's interest stems from the fact that HC+NO_x are precursors to ground level ozone and many cities in California have severe ozone pollution. Title III of the California Code of Regulations set the standards for marine engines (1998). The first phase of the standards is the same as EPA's, except that the 75% reduction in HC+NO_x emissions must be completed by 2001 instead of 2006.

Marine engines in the model year 2001 will have to be certified with CARB and meet the 75% reduction of HC+NOx emissions set by EPA. CARB goes further than EPA's Final Rule by requiring an 80% reduction in HC+NOx emissions, from unregulated levels, by 2004 and a 90% reduction by 2008. To provide purchasing information to the public, CARB also requires manufacturers to label the engines as having "low", "very low", or "ultra low" emissions based on the emission standards they comply with: 2001, 2004 or 2008. For example, an engine emitting 75% less HC+NOx would be labeled as having "low" emissions and therefore in compliance with CARB's 2001 HC+NOx emission standards.

California recently adopted these regulations as part of their State Implementation Plan (SIP). The governor of California is expected to sign the rule on conventional marine engines in November of 1999 and EPA is expected to approve California's SIP after it is signed.

Both EPA's and CARB's standards apply only towards the sale of new marine engines introduced into commerce after the standards go into effect. The standards do not apply to the resale of used marine engines.

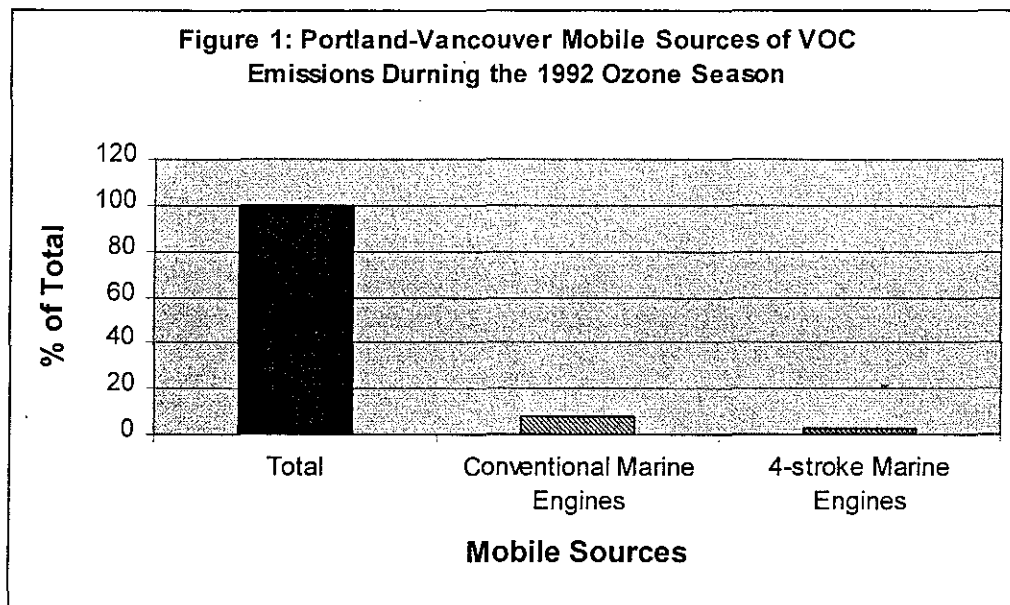
Conventional Marine Engine Impacts on Air Quality

During the summer months HC are of concern because, when present with sunlight and NOx, they form ground level ozone², which can cause or contribute to respiratory illness (Wark & Warner, 1981). In Portland-Vancouver, VOC (a subset of HC) and NOx are monitored. The most recent inventory of sources of ozone for Portland-Vancouver determined that 3.8% of total VOC come from conventional marine engines during the Ozone Season (State of Oregon 1992 Attainment Year SIP Emissions Inventory).³ This is a significant percentage because it comes from a single source

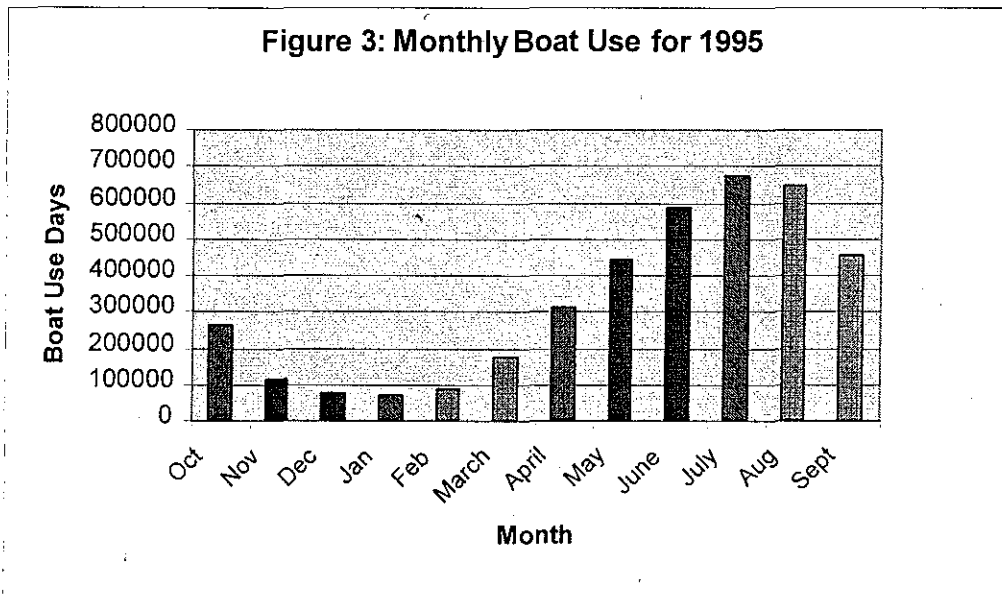
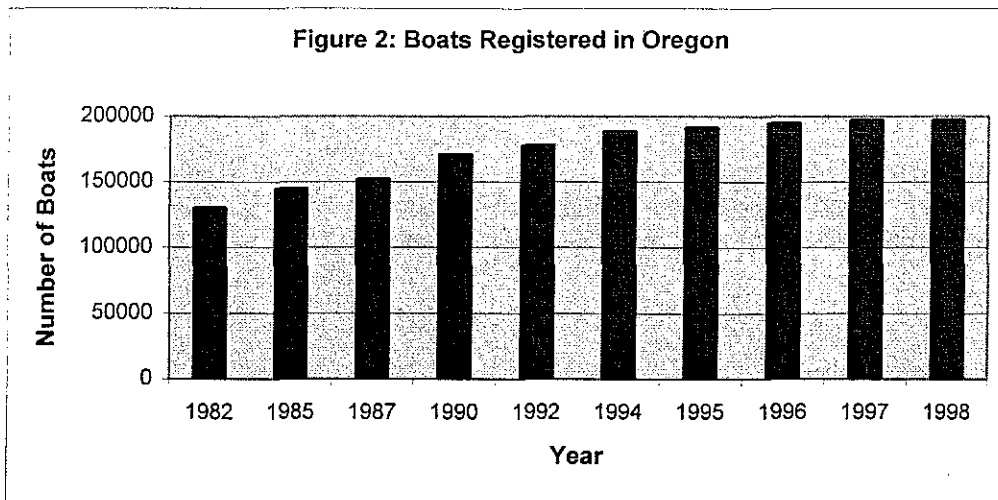
² Ground level ozone is also known as photochemical smog.

³ Emissions from marine engines were calculated, based on population, using Seattle's emissions inventory of sources of ground level ozone.

(personal communication with DEQ Air Quality staff). Figure 1 shows the percent of VOC that come from conventional marine and 4-stroke engines compared to all mobile sources of VOC.



In 1998, 197,634 boats were registered in Oregon. Information is not available as to how many of these boats used conventional marine engines versus DFI 2-stroke or 4-stroke engines. It is known that registration has increased over the past ten years but has slowed in the past four (see Figure 2: Boats Registered in Oregon). Personal watercraft registration, which is included in total boat registration, has increased from roughly 800 units in 1988 to 14,000 in 1998, a 17 fold increase (Oregon State Marine Board Registration Inventory, 1998). Further, almost all personal watercraft use conventional marine engine technology at this time and have twice the hourly annual usage rate of other water vessels as well as more average horsepower (California Air Resources Board, 1998). Boating activity varies based on the season and is the greatest during summer months. Figure 3 shows the boating activity for Oregon during 1995 (Oregon State Marine Board Registration Inventory, 1998).



The number of boats in Oregon, plus the fact that conventional marine engines contribute a significant amount of uncontrolled NO_x and VOC to the Portland-Vancouver airshed, means that conventional marine engines are an air quality concern in Oregon, especially during the summer. During 1998, Portland exceeded National Ambient Air Quality Standards (NAAQS) for ground level ozone four times based on an eight-hour average. However, because only the 3-year average of the fourth-highest recorded

concentration is used for comparison against the standard, Portland does not currently violate the NAAQS. What this suggests is that Portland is an area of concern in relation to the NAAQS and the accelerated phase-out of conventional marine engines could contribute to reducing possible NAAQS violations (Personal communication with DEQ Air Quality staff).

If Portland does go out of compliance with the NAAQS there would be far reaching consequences. One possible consequence could be requiring gasoline sold in Oregon to be reformulated. Methyl tertiary-butyl ether (MTBE) is an additive to reformulate gasoline commonly used to reduce the generation of ozone precursors. Currently California, along with other states, uses gasoline reformulated with MTBE. While MTBE does reduce ground level ozone, it has negative affects on water quality, which will be discussed in the following paragraphs.

Conventional Marine Engine Impacts on Water Quality

Marine engine exhaust not only impacts air quality but it impacts water quality as well. When the unburned fuel is exhausted from the engine it goes into the water first, not the air. This is done to muffle the sound.⁴ Approximately half of that fuel, depending on water and air temperature, evaporates immediately. Therefore, if the engine exhausts 30% of its fuel unburned, we can expect approximately 15% of that to persist in the water column for some amount of time (Kratzenberg, 1997). The gasoline constituents of the exhaust, including the HC's benzene, toluene, ethylbenzene and xylene (known as the BTEX compounds), will continue to evaporate from the water's surface (Office of Water, Drinking Water and Health fact sheets, 1999).⁵ However, if the constituents mix to more than a 3.3-foot depth the evaporation rate slows and becomes a function of the rate of

⁴ When personal watercraft are running at full-throttle, and when other conventional marine engines are idling, they exhaust directly to the air.

⁵ The BTEX compounds are listed as priority water pollutants on Table 20 of the Oregon Administrative Rules for water quality (Department of Environmental Quality, 1997). These compounds all have short-term and long-term health effects.

mixing of the water. This is of concern because these gasoline constituents can mix to the 9- to 12-foot depth and persist for up to two days (Miller & Fiore, 1997). Further, MTBE, which is used in some reformulated gasoline, persists in the water column as well. MTBE is slightly more soluble than other gasoline constituents and can rapidly mix with water (Office of Water, Drinking Water Advisory Fact Sheet, 1997; The Blue Ribbon Panel, 1999; Office of Mobile Sources, 1999). In 1998, EPA classified MTBE as a possible human carcinogen and placed it on the Drinking Water Contaminant Candidate List (EPA Federal Register, vol. 63, no. 40, 1998).

Water quality research has been conducted at Lake Tahoe to determine the impact of conventional marine engine exhaust at ambient concentrations (Allen, 1998). During lake enclosure tests, which used a confined portion of the lake and measured for gasoline constituents immediately after a single pass of a conventional marine engine, benzene, xylene and MTBE concentration were measured that exceeded California's Department of Health Services' drinking water standards (Fiore, Mary F., et. al., 1998; Tahoe Regional Planning Agency, 1999). USGS performed a study on the lake, measuring for BTEX and MTBE and found no exceedances of Federal drinking water standards (1998).

The Metropolitan Water District of Southern California has performed other studies on MTBE concentrations and sources at Lake Perris and Shasta Lake in California. These studies were conducted between March 1997 and January 1998. They found that precipitation and stormwater runoff were not significant sources of MTBE and that MTBE concentration increased dramatically during the spring and summer months due to increased boating activity (Retuer, et. al., 1998). Even though MTBE is not currently used in Oregon, the seasonal increase in the detection of the HC pollutant suggests that other HC pollutants, such as the BTEX compounds, could increase dramatically during the spring and summer months as well.

One problem with relying too heavily on these types of studies is that every body of water is subject to different conditions including water temperature, air temperature,

water-surface disruption by wind, water mixing, time of day, and boating activity. Because these studies are site-specific, the only result applicable to Oregon is that conventional marine engines have some negative, but unquantified, impact on water quality.

Conventional Marine Engine Impacts on Wildlife

During laboratory experiments, when fish were exposed to low concentrations of gasoline constituents, they suffered genetic and reproductive defects and at high concentrations those constituents became toxic (Johnson, et. al., 1992; Ericson, 1994; Tjarnlund, et. al., 1995; Tjarnlund, et. al., 1996; Oris, et. al., 1998; Keller, et. al., 1998; Koehler, 1999). Other studies have shown that gasoline constituents can be toxic to zooplankton as well.

The effect of marine engine exhaust is of concern because small boats and personal watercraft are maneuverable, and therefore capable of being used in shallow and remote areas (Davis, 1999; National Park Service, 1998). These areas are where wildlife is the most prevalent. Organisms that are a crucial link in the food chain, such as fish eggs, algae, zooplankton and shellfish live in these shallow waters, while birds nest and feed on the shores (Giesy, 1997; Tahoe Research Group, 1997; Miller & Fiore, 1997; Bluewater Network, 1998 Oris, et. al., 1998; National Park Service, 1998; Davis, 1999; Apostel Islands National Lakeshore, 1999). Of further concern is the recent listing of salmonid species under the Endangered Species Act. The National Oceanic and Atmospheric Administration list a number of environmental changes, including degradation of habitat quality, as causes of declining salmonid populations in the Pacific Northwest (Northwest Fisheries Science Center, 1999).

Again, the effects of marine exhaust on fish and other aquatic life are site-specific and have not been researched fully. Further, many of the studies have been conducted in laboratories and may not represent ambient levels of emissions. Therefore, what these

studies suggest is that marine engines have some negative impact on fish and other aquatic, but the level of impact here in Oregon is unknown at this time. EPA has overcome the problem of site-specificity by stating that exhaust from these engines has an impact on marine plants and animals but it is not large enough to warrant separate water quality standards. Further, the Final Rule on conventional marine engines will reduce levels of pollutants in engine exhaust thus reducing the levels of pollutants released into the water as well as the air (Revelt, 1994).

Marine Engine Technology

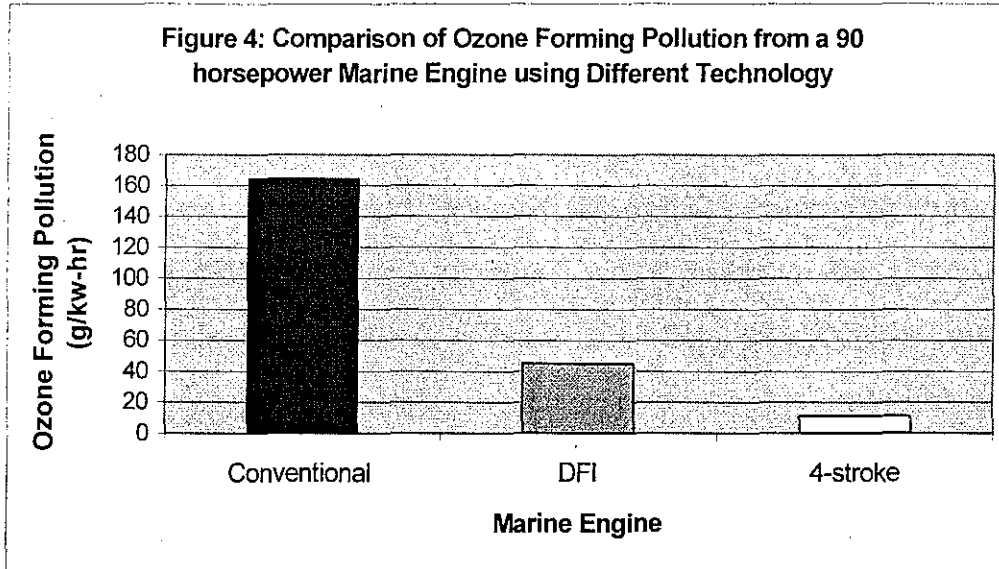
EPA considers DFI 2-stroke and 4-stroke marine engines to be the most promising technology to reduce emissions from marine engines. This is because DFI 2-stroke and 4-stroke marine engines use technology that significantly, 75% to 95%, reduces the amount of HC+NO_x that are exhausted from the engine. The following paragraphs explain the technological differences between conventional, DFI 2-stroke and 4-stroke marine engines.

Within all three engines there is a crankshaft, connecting rod, piston, and combustion chamber. The difference between a 2-stroke and 4-stroke engine is in the number of piston strokes used to intake the fuel, compress and ignite it, and exhaust - this is called a power cycle. Conventional marine engines (carbureted 2-stroke) use an intake stroke followed by a power stroke. During the intake stroke, fuel enters the combustion chamber through the inlet ports. The piston then compresses the fuel and the spark plug ignites it, creating the power stroke. Finally, the exhaust port is opened and the exhaust from the combustion chamber exits. The reason why 25 to 30% of the fuel exhausts unburned is because while the new fuel is entering the chamber through the inlet port, the exhaust ports are also open.

DFI 2-stroke also takes two strokes per cycle, however the fuel is injected directly into the combustion chamber instead of through an inlet port. This significantly reduces

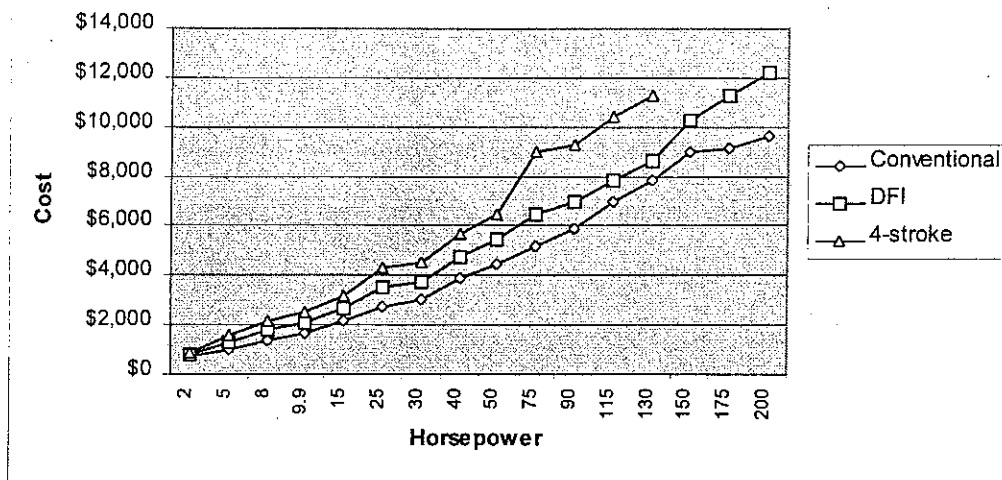
the amount of unburned fuel exhausted from the engine by controlling the timing of fuel that enters the combustion chamber. There is however, still some overlap between the opening of the exhaust port and the injection of fuel.

The 4-stroke technology uses four piston strokes, controlling the flow of fuel into the cylinder and the release of exhaust. First, the intake valve is opened, as the piston retracts, pulling the fuel enter the combustion chamber. When the piston rises, the intake valve closes and the fuel is compressed and ignited as the piston is pushed down for the power stroke. Finally the exhaust valve opens as the piston rises, pushing the exhaust out. There is very little opportunity for unburned fuel to be released with the exhaust. As figure four illustrates: for a 90 horsepower outboard motor a conventional marine engine exhausts 164 grams/kilowatt-hour of ozone forming pollution, a DFI 2-stroke engine exhausts 45 grams/kilowatt-hour, and a 4-stroke engine exhausts 11 grams/kilowatt-hour (California Air Resources Board Fact Sheet, 1999). As technology improves, DFI 2-stroke engines can be expect to reduce HC+NO_x emission even further. Outboard Marine Corporation's year 2000 model 90 horsepower DFI 2-stroke engine is EPA certified with HC+NO_x emissions at 25 grams/kilowatt-hour (Outboard Marine Corporation, 1999).



The question is raised: given the amount of pollution that conventional marine engines produce, and the fact that cleaner technology exists, why are conventional engines still on the market? One reason is that manufacturers need to sell conventional marine engines to fund the development and introduction of the new technology. Also, conventional marine engines use simple technology making them easy to maintain. Further, they are relatively lighter weight, depending on the horsepower, thus they have an excellent power-to-weight ratio, and they generally cost less than DFI 2-stroke or 4-stroke engines (personal communication with the National Marine Manufacturers Association). EPA estimates that the consumer cost of a conventional marine engine is 10 to 15% less than a 4-stroke engine of the same horsepower, depending on the model (Environmental Protection Agency, 1996). The result is a strong public demand for conventional marine engines. Figure 5 shows cost and horsepower differences between the engines.

Figure 5: Cost Comparison for New Marine Engines



*All costs are estimated average suggested retail prices based on a compilation of information provided by the manufactures.

There are advantages to the 4-stroke and DFI 2-stroke technology, beyond the reduction in pollution, that make them appealing to the public. They are 30% to 60% more efficient, depending on engine type and use, than the conventional marine engines (Honda Marine, 1999). Therefore, the cost to the public of purchasing the new engine may be offset by the reduced energy consumption costs. Honda reports that, a 90 horsepower 4-stroke engine can travel 60% farther, at cruising speed, than its conventional counterpart on the same amount of gas (Honda Marine, 1999). Another marketing tool is the fact that the cleaner technologies reduce smoke, fumes and noise, start more easily, and have quicker throttle response than the conventional technology (National Marine Manufacturers Association, 1998). However, 4-stroke technology only currently exists up to 130 horsepower. DFI 2-stroke engines exist up to 225 horsepower, offering low emission alternatives for craft that need higher power.

The technology turnover is beginning to take place in order to comply with EPA and CARB's HC+NO_x emission standards. The manufacturers represented by the National Marine Manufacturers Association, whose members include Outboard Marine Corporation, Mercury Marine, Suzuki, Bombardier and Yamaha among others, feel that

EPA's standards (75% reduction in emissions from unregulated levels by 2006) are very fast and that it takes time to develop and introduce the new technology into the market. Further, they are concerned that CARB's time schedule (75% reduction in emissions from unregulated levels by 2001) is unrealistic and that a large segment of the boating population will be left without the products they desire (personal communication with representatives of National Marine Manufacturers Association). The only manufacturer not concerned with either EPA's or CARB's standards is Honda because they only produce 4-stroke engines and have been doing so since 1974 (personal communication with Honda). They are in compliance with both standards as of today.

Conventional Marine Engine Policies in other Places

Oregon is not the first place to look at conventional marine engines and their impacts on the environment. Other places such as the state of Florida and Lake Tahoe, CA have developed standards and regulations to remove these engines from the water. All of the programs currently in place, including EPA's, are based either on air quality, water quality or safety/nuisances. Each basis will be looked at differently. Figure 6, on page 18, has a flow chart of the policies and the dates they went into effect.

Policies Based on Air Quality:

Both EPA and CARB have enacted standards based on air quality. Because both were discussed at length earlier in the paper, they will only be referred to here. Air quality is of concern in ozone nonattainment areas in the summer time when boat use is the greatest. EPA and CARB's air quality standards call for a 75% reduction in HC+NO_x emissions from new marine engines by either 2006 or 2001 respectively and CARB requires a 90% reduction by 2008. The rules do not cover the sale or use of used conventional marine engines. The new technology will gradually replace conventional marine engines because, when properly maintained, a small marine engine (less than 100

horsepower) can be in use for 25 plus years, a large marine engine (greater than 100 horsepower) for about 15 years, and a personal water craft for approximately 10 years. The result is that benefits of the new technology will accrue slowly over several decades. According to EPA, the complete replacement of all conventional marine engines will not occur until 2050 (Environmental Protection Agency, 1996).

Policies Based on Water Quality:

At least three bodies of water have regulated the use of conventional marine engines based on water quality: Lake Tahoe and the Calero Reservoir in California and Lake Constance in Europe. As discussed previously, marine engine exhaust has some negative effect on water quality and can disrupt normal biological functions within fish and other aquatic organisms.

Lake Tahoe's rule on conventional marine engines, Ordinance No. 99-3 adopted in January of 1999, states that: As of June 1, 1999 conventional marine engines greater than 10 horsepower (other than auxiliary sailboat engines) are no longer allowed on Lake Tahoe. Until October 1, 2001 electronic fuel injection 2-stroke engines, purchased before January 27, 1999, that meet US EPA 2006 standards or are auxiliary engines for sailboats, are allowed on the lake. Finally, 4-stroke engines, DFI 2-stroke, and any watercraft that meets CARB's 2001 or the US EPA 2006 emission standards are allowed on the lake. These rules apply to used engines as well as new ones (Tahoe Regional Planning Agency, 1999):

San Jose, CA adopted regulations on conventional marine engines for the Calero Reservoir because it is a source of drinking water for the population of San Jose. In order to protect human health, the Santa Clara Valley Water District banned the use of conventional marine engines on the water body on July 7, 1998 (Bluewater Press Release, 1998). They do allow DFI 2-stroke and 4-stroke engines on the water.

Regulations adopted for Lake Constance, which is bordered by Switzerland,

Germany and Austria, required an immediate 92.2% reduction in HC+NOx emissions in 1991 followed by a total reduction of 95.6% in 1994; exempting engines four-horsepower or smaller in size (Kratzenberg, 1997). The Swiss Federal Office of Transport adopted this regulation because a study done by Germany's Department for Environmental Protection revealed that substances in engine exhaust have negative impacts on living fish (Seibold-Tison, 1991).

Policies Based on Safety and Nuisance:

San Juan County, WA, San Francisco, CA and the state of Florida have adopted regulations for personal watercraft based on their hazards to human safety and nuisance to humans and wildlife. The San Juan County Board of Commissioners adopted Ordinance No. 3-1996, which restricted the use of personal watercraft within the boundaries of the county (Bricklemyer & Ferguson, 1998). To substantiate the Ordinance, the Aquatic Resources Conservation Group and the County Planning Department prepared a report for the Board of Commissioners. The report stated that personal watercraft produce noise and speeds that can disrupt other vessels, swimmers and the natural environment (Green & Green, 1990). The Ordinance was legally challenged but the Washington State Supreme Court found that it did not violate the county's police power (Weden, 1998). Currently San Juan County is looking into banning personal watercraft in certain areas of water based on the amount of nuisance they would cause however no bans have gone into effect.

In 1998, San Francisco amended Part II, Chapter VIII, of the Municipal Code by adding Article 47. The article prohibits the operation of personal watercraft within 1200 feet of the shoreline. The reasons for this action are to "...eliminate the adverse impacts to the diverse and unusual species found in the San Francisco Bay, promote overall public safety, and decrease hydrocarbon pollution that is disproportionately caused by personal watercraft (San Francisco Municipal Code, 1998)." That same year, Florida adopted

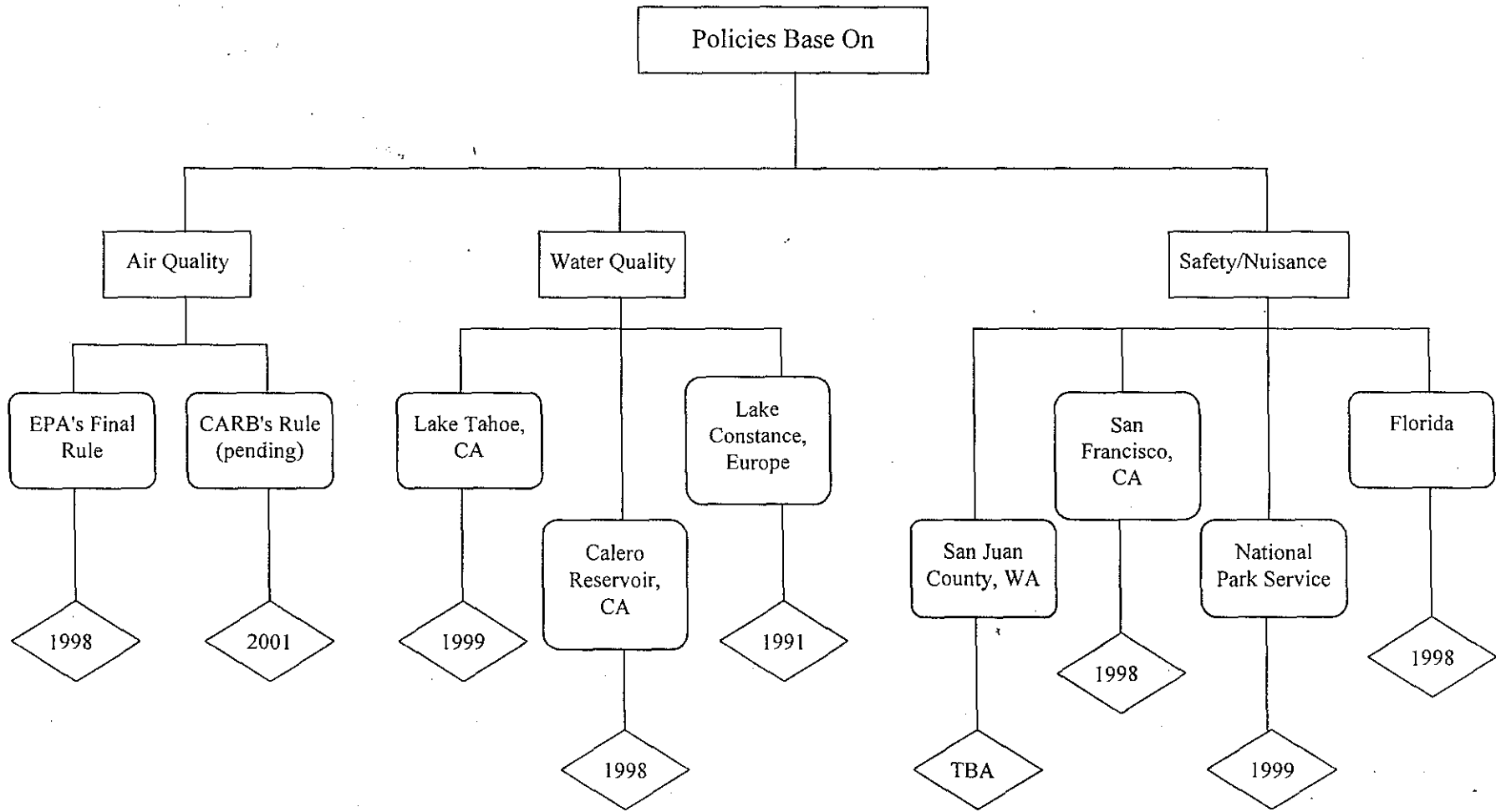
Ordinance No. 019 that prohibits the use of personal watercraft within 1200 feet of the shoreline along designated beaches and within the Western Sambos Ecological Reserve. The reasons again are that personal watercraft threaten the health, safety and quality of life of watercraft operators, swimmers, snorkelers, divers, other boaters and residents, and the threaten the quality of the environment (Florida Code of Ordinances, 1998).

The National Park Service has enacted regulations that allow National Parks to ban the use of personal watercraft based on the disruption of wildlife. The basis for the regulations are that personal watercraft have the potential to "adversely impact wildlife and aquatic vegetation (National Park Service, 1998)." Personal watercraft can interrupt normal wildlife activity by displacement, loss of habitat use, decreased reproductive success, interference with movement, cause direct mortality, interference with courtship, and alter the behavior of wildlife. Further, the discharge of oil and gas from these crafts into the water can degrade habitat (National Park Service, 1998).

Results of Policies:

All of the programs in the previous three sections are relatively new, with the oldest beginning in 1991 at Lake Constance in Switzerland. Because of their infancy, the environmental impacts of the programs are yet to be seen much less recorded. Research on the environmental effects of programs regulating the use of conventional marine engines will be ongoing.

Figure 6: Policies in Other Places



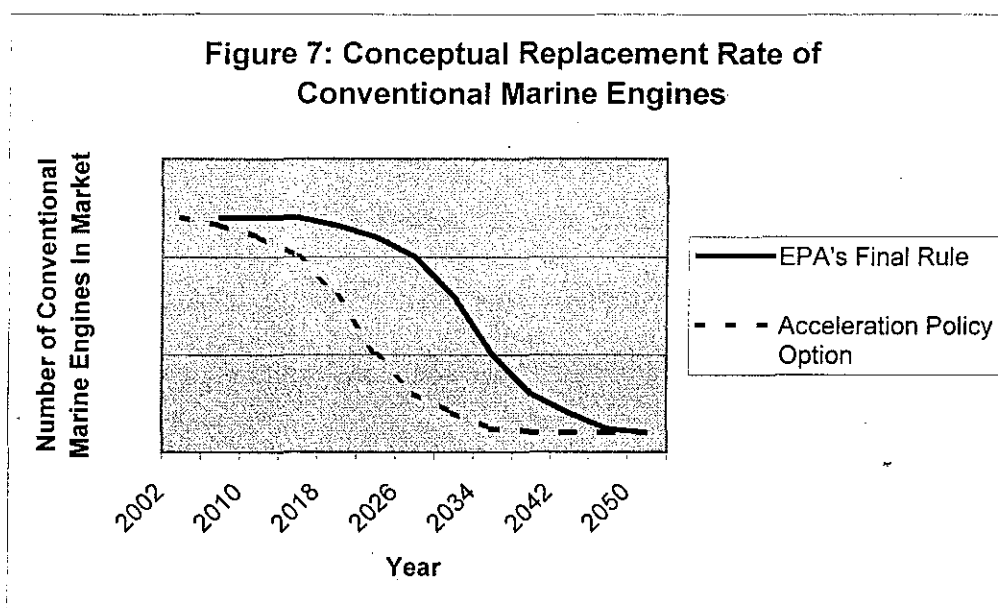
Section 2

Policy Options for Oregon

Based on information in Section 1 of this report, conventional marine engines have significant impact on air quality and an unquantified impact on water quality. Therefore, consideration of a policy to encourage the public to purchase DFI 2-stroke and 4-stroke marine engines and retire conventional engines may be appropriate. Further, EPA's Final Rule for new conventional marine engines addresses engines entering commerce on or after the model year 1998, while conventional marine engines already produced are not affected. The Final Rule also does not ban the sale of conventional marine engines because the HC+NO_x emission standards are based on a corporate average allowing the manufacturers to produce a combination of conventional, DFI 2-stroke and 4-stroke marine engines, or other new, clean technology (Environmental Protection Agency, 1996).

In order to accelerate the replacement of conventional marine engines, the policy options in this section have two objectives. The first objective is to influence the purchasing behavior of people in the market for a new marine engine. The second objective is to encourage people who own conventional marine engines to retire them and purchase a DFI 2-stroke or 4-stroke engine before they would otherwise be in the market for a new engine. These objectives are aimed at accelerating the removal of conventional marine engines from the market and replacing them with cleaner DFI 2-stroke and 4-stroke marine engines made available by EPA's Final Rule. Figure 7 shows a conceptual

replacement rate for conventional marine engines with EPA's Final Rule compared to other policy options that accelerate their phase-out.⁶



While this report focuses on voluntary and incentive policy options, a spectrum of options can be considered to accelerate the replacement of conventional marine engines. This report will consider that spectrum, including a voluntary policy, three incentive policies including a buy-back program, product bundling, and tax credits, a certification program, a surcharge policy, adoption of CARB's Rule and a permitting program. Beginning with the least complex policy option and progressing to the most complex, each option will be considered separately. (For a summary of the comparisons between the policy options see figure 8 on pages 31 and 32.)

⁶ EPA estimates that replacement of conventional marine engines with DFI 2-stroke and 4-stroke engines will not be complete until 2050 (Environmental Protection Agency, 1996).

Voluntary Policy

A voluntary policy places very little burden on the boating public by not requiring them to change their purchasing behavior. They may either purchase a cleaner marine engine or not. However, being voluntary limits the program's effectiveness because the only incentive for changing purchasing behavior is based on an individual's sense of personal responsibility for reducing impacts to the environment and there are no penalties for not participating. Further, a voluntary policy does not ensure that when a new DFI 2-stroke or 4-stroke marine engine is purchased that the conventional marine engine is retired, removing it from use. In many cases, when a person purchases a new engine they will sell the conventional marine engine.

One type of voluntary policy is an educational campaign, which would consist of educating the public about the relative differences between conventional, DFI 2-stroke and 4-stroke marine engines including their impact on the environment and performance differences. This education could be provided in the form of:

- brochures
- public service announcements
- point-of-sale displays
- fact sheet mailings
- internet pages
- product labeling
- posters
- presentations
- demonstrations

There is a possibility of partnering with many different organizations to distribute the educational materials. Possible organizations include the State Marine Board, Pacific Oil Spill Prevention Education Team (POSPET), marinas, boat launches, dealers,

manufacturers, sporting goods stores, sportsman groups, schools and other agencies such as the Portland Bureau of Environmental Services.

POSPET is a group of individuals who are involved in private, state, province and federal oil spill prevention programs from California, Oregon, Washington, British Columbia and Alaska. They educate the public about the effects of oil on water quality and fish and wildlife, how to avoid oil spills, and what to do if an oil spill occurs. They have partnered with marinas, boat launches, dealers, fisheries and non-profit organizations and are interested in partnering with DEQ on the issue of marine engines. One of their educational campaign tools is "New Boater Information Bags." These are provided to the public at the point of sales and included educational information such as brochures, laminated flyers, floating key rings and oil absorbing bilge pads to promote clean and safe boating.

Another educational campaign tool is product labeling. As part of CARB's Rule discussed in the first section, manufacturers are required to label their engines based on their compliance with the rule's emission standards. The purpose is to help the public make informed purchasing choices by labeling each marine engine type with energy efficiency information and to make engine identification easier. The requirement does not go into effect until 2001, however concerns are already being raised about the complications the labeling program might encounter. One concern is that because the engine type will be easy to identify, agencies governing bodies of water may ban engines that do not have the labels (this is not part of CARB's rules.) Another concern is that because there are different standards (2001, 2004 and 2008), and therefore different labels, the public may be confused about which engines can be used and which cannot.

To address this issue, CARB is developing hangtags that explain the different emission standards and the labels.

Incentive Policy

An incentive policy offers the boating public an incentive beyond personal satisfaction for decreasing environmental impact by purchasing a DFI 2-stroke or 4-stroke marine engine. The burden on the public is low because the public still has the option to participate or not. However, the public is more likely to participate with the incentive. An incentive policy could be costly and would require sponsors to provide the incentive.

There are a variety of types of incentives including a buy-back program, product bundling and tax credits.

Buy-Back

A buy-back program would offer an incentive to the boating public by giving people money to retire their conventional marine engine and purchase a DFI 2-stroke or 4-stroke engine. One complication is that the incentive will have to be large enough to change purchasing behavior. For a small engine (e.g. two horsepower) a \$50 coupon towards a new, \$700 DFI 2-stroke or 4-stroke engine may be an effective incentive. However, for a larger engine (e.g. 120 horsepower) a \$50 coupon towards a new, \$10,000 DFI 2-stroke or 4-stroke engine is less likely to be effective. The incentive would have to reflect the size and cost of the engine being purchased and this is likely to be expensive.

The program would have to be sponsored by an organization, or a partnering of organizations, with enough money and interest, to provide sufficient incentives. A possible option would be to allow VOC emission trading with industry. An industry that faces potentially expensive control technology or permit costs to reduce VOC emissions could buy used conventional marine engines from the public and dispose of them. The industry would receive a waiver to emit VOC proportional to the amount removed by the marine engines. The public would receive a coupon towards the purchasing of a DFI 2-stroke or 4-stroke marine engine.

Beginning in 1996 and continuing through today, DEQ has partnered with Metro and Portland General Electric (PGE) to provide the Lawn Mower Buy-Back program. The public brings their old, working gas lawn mowers to Metro's Recycling Center and receives a \$50 coupon toward a new electric mower or a \$15 coupon toward a push mower. New electric lawn mowers cost from \$150 to \$450 depending on the model. PGE sponsors the program because the new electric mowers use PGE's electricity and the program has been successful. During the spring and summer of each year the incentive is available. In 1998, PGE sponsored 400 coupons and 573 gasoline lawn mowers were turned in before the program was ended for that year.⁷ DEQ funded the difference between PGE's pledge and the actual number of mowers turned in. Metro dismantles the lawn mowers and recycles the metal.

⁷ DEQ set a target of 1200 lawnmower per year to be turned during the buy back. However, funding was only available to receive 400 lawnmowers.

Product Bundling

Product bundling provides an incentive for responsible purchasing. When a person purchases a DFI 2-stroke or 4-stroke marine engine they would receive free or discounted products. This would require a partnering between the marine engine manufacturers and other businesses. A possible partnership would be with a gasoline provider with a "greener" image. Free-gas coupons could be given to people when they purchase a DFI 2-stroke or 4-stroke marine engine. This program would only need to last for two to three years because the technology will be turning over due to EPA's Final Rule.

Portland area industries may wish to partner with the marine engine manufacturers because Portland is an area of concern in relation to the NAAQS. If Portland violates the NAAQS, industry would face more stringent regulations. By encouraging the replacement of conventional marine engines, industry could reduce Portland's chances of violating the standards.

A product bundling program does not ensure that the conventional marine engines are removed from the market. This would also be an expensive program to maintain because the incentive would have to be great enough to change purchasing behavior.

Tax Credits

A tax credits program would offer a monetary incentive to purchase DFI 2-stroke or 4-stroke marine engines. When a person purchases a DFI 2-stroke or 4-stroke engine they would be able to deduct a specified amount from their taxes. Like a buy-back or product bundling program, the amount of the incentive would have to be great enough to

influence purchasing behavior and therefore, tax credits could be expensive. Like product bundling there is no assurance that conventional marine engines are being removed from the market and disposed of. A tax credit program would require legislative action, and therefore significant DEQ resources to draft and administer, and could not take effect until mid-2001 at the earliest.

The Pollution Prevention Tax Credits program gives tax credits to business that eliminated the use of certain toxic chemicals by installing eligible technology (Department of Environmental Quality, Air Quality Division, Pollution Prevention Tax Credits Fact Sheet, 1996). Few companies have taken advantage of the tax credits primarily because of the lack of promotion. The Oregon Office of Energy offers energy tax credits (BETC) for businesses that improve their energy efficiency. One of the options for improving energy efficiency is to replace old inefficient technology. To date, more than 4,800 energy tax credits have been awarded to businesses. The Office of Energy promotes the tax credit program and has spent more than \$95 million on credits (Office of Energy web site; Department of Environmental Quality, Solid Waste Program web site).

Certification Program

A certification program would require all engines to be certified with the state before being sold. Only marine engines that demonstrate a 75% or better reduction in HC+NOx emission would be certified. Following EPA's Final Rule, in the model year 2006 no new engine could be sold in Oregon that is not certified and, after a certain period of time (e.g. three years), no used engine could be sold that is not certified. This

program would effectively ban the sale of conventional marine engines and also remove them from the market.

There are complications with a certification program. First, burden would be placed on the public because they would be unable to sell their used or buy new conventional marine engines. By postponing the certification of new engines until EPA's Final Rule is in place and postponing the certification of used engines until the public has been informed of the new regulations, the burden would be greatly reduced. Another way to reduce the burden would be to allow conventional marine engines 10 horsepower or smaller in size to be sold.⁸

A second complication is that a certification program would require monitoring and enforcement that could be costly and time consuming. Many marine engines are sold through the classified ads and in garage sales and therefore would be very hard to monitor. The last complication is that marine engines cannot be regulated based on air quality concerns by states, except by adopting rules set forth by California. Therefore, a certification program would have to be based on water quality concerns, which are unquantified at this time and may not warrant separate regulations.

Between 1984 and 1990, DEQ certified wood stoves based on emission standards. The program prohibited the sale of noncertified stoves and was enforced upon complaint. Local papers were notified of the regulations and were cooperative in informing the public of the sales restrictions. One difference between wood stove and marine engine certification is that it is illegal for noncertified stoves to be installed. This brings in

⁸ Marine engines smaller than 10 horsepower are generally used as auxiliary engines.

inspectors, banks and insurance companies and is effective in prevention the sale and installation of old stoves. EPA currently runs the wood stove certification program.

Surcharge Policy

A surcharge on conventional marine engine sales, imposed by the state, could be used to reduce the cost differential between the conventional marine engines and DFI or 4-stroke engines. Further, a rebate could be offered on DFI or 4-stroke engines to reduce the cost differential even further and could be funded by the surcharge. This would eliminate cost as a barrier to purchasing cleaner technology. A surcharge policy would favor people who could spend the extra money to purchase their desired choice of engine. It would also not ensure the retirement of used conventional marine engines. And, finally, it would require legislative action to enact.

CARB's Rule

CARB's Rule on marine engines does not directly influence the purchasing behavior of the boating public. However, the rule does accelerate the phase out of conventional marine engines by requiring manufacturers to place DFI 2-stroke and 4-stroke marine engines on the market five years before EPA's Final Rule. Further, the CARB's Rule requires a 90% reduction in HC+NO_x emissions by 2008 which means that the manufacturers will have to produce more 4-stroke and fewer conventional marine engines to comply. In the long run the result will be more DFI 2-stroke and 4-stroke marine engines available to the public. The manufacturers will be marketing their engines thus influencing the purchasing behavior of the public. The result would be at

least five-year acceleration of the phase-out of conventional marine engines over federal rules as well as more DFI 2-stroke and 4-stroke engines on the market. Also, CARB's Rule offers education to the public in the form of engine labels and hangtags that will provide accurate information on the emissions of each engine type.

This option places an indirect burden on the public by reducing the availability of lower cost conventional marine engines sooner than would otherwise occur. As mentioned in Section 1, all manufacturers may not be able to comply with CARB's Rule. Further, DFI 2-stroke and 4-stroke technology does not exist yet for all horsepowers. As a result, in the short-term portions of the market may be left without the marine engines they desire. Another complication is that adopting CARB's Rule requires changes to Oregon's State Implementation Plan. After the rule making is complete, DEQ would have to administer the program and this could be costly initially. CARB's Rule, like EPA's, offers a long term reduction in HC+NOx emissions but little short term benefits because of the time it will take for the entire fleet of marine engines to turn over. Finally, adopting CARB's Rule does not ensure disposal of conventional marine engines.

(Note: CARB's Rule on marine engines has moderate effectiveness for accelerating the retirement of conventional marine engines and replacing them with cleaner technology however, the rule is very effective at reducing HC+NOx emissions (Personal contact with DEQ Air Quality Staff, 1999).)

Permitting Program

Skippers for Clean Oregon Waters (SCOW) drafted a bill, HB#3621 for the 1999 Oregon legislature, that would have required permits for the operation of conventional

marine engines on Oregon waters. The program would have required owners of conventional marine engines to purchase a permit when registering their boat with the Oregon State Marine Board allowing them to operate the engine on Oregon waters. The money collected from the permitting fees would have funded a buy-back program aimed at removing 10% of the conventional marine engines from the market per year. The bill was not approved.

A complication with a permitting program is that, like with an incentive program, the permit fee would have to be large enough to encourage people to replace their conventional marine engine with a DFI 2-stroke or 4-stroke engine. Permit fees in HB#2621 depended on the horsepower of the engine to reflect the volume of emissions released: small engines would have had small permit fees, larger engines would have had proportionately larger fees.

Other complications with a permitting program are that it requires legislative action, plus agency monitoring and enforcement. Also, a direct burden would be placed on the boating public. In order to minimize that burden a permitting program should not begin for some period of time (e.g. five years) so the boating public could be made aware of the new regulations. Finally, this program does not ensure that the conventional marine engines will be disposed of when a new DFI 2-stroke or 4-stroke engine is purchased.

A permitting program could generate revenue that could be use to pay for the administration of the program. HB#3621 suggested that the money generated from the permits should be funneled back an educational program.

Combination of Policies

The options discussed in this section of the report could be combined to increase the effectiveness of the policies. For example, an educational campaign combined with a buy-back program could increase the success of each by educating the public about the relative differences between the marine engine types and then providing cash incentives to retire conventional marine engines and purchase DFI 2-stroke or 4-stroke engines.

Figure 8: Comparison of Policy Options

Policy Option	Strengths	Limitations	Changes purchasing behavior of people in market for a new engine	Encourages the retirement of conventional marine engines	Effectiveness
Educational Campaign	<ul style="list-style-type: none"> ▪ low burden on public ▪ encourages partnerships ▪ low cost to the state 	<ul style="list-style-type: none"> ▪ limited incentives encouraging public participation ▪ does not ensure disposal of conventional marine engines 	Yes	Yes	Low
Buy-Back Program	<ul style="list-style-type: none"> ▪ low burden on public ▪ provides a monetary incentive to change purchasing behavior ▪ encourages partnerships ▪ ensures disposal of conventional marine engines 	<ul style="list-style-type: none"> ▪ limited incentives encouraging public participation ▪ costly ▪ may be difficult to identify a sponsor 	Potentially: depends on promotion of program and education	Yes	Low to Moderate: depends on the amount of incentive
Product Bundling	<ul style="list-style-type: none"> ▪ low burden on public ▪ provides a monetary incentive to change purchasing behavior ▪ encourages partnerships 	<ul style="list-style-type: none"> ▪ limited incentives encouraging public participation ▪ costly ▪ does not ensure disposal of conventional marine engines ▪ may be difficult to identify a sponsor 	Yes	Potentially: depends on the agency's actions ensuring retirement	Low to Moderate: depends on the perceived value of the product
Tax Credits	<ul style="list-style-type: none"> ▪ low burden on public ▪ provides a monetary incentive to change purchasing behavior 	<ul style="list-style-type: none"> ▪ requires legislative action ▪ costly to the state ▪ does not ensure the disposal of conventional marine engines 	Yes	Potentially: depends on the agency's actions ensuring retirement	Moderate: depends on the amount of credit

Figure 8: Comparison of Policy Options Continued

Policy Option	Strengths	Limitations	Changes purchasing behavior of people in market for a new engine	Encourages the retirement of conventional marine engines	Effectiveness
Marine Engine Certification	<ul style="list-style-type: none"> ▪ prevents the sale of conventional marine engines ▪ certainty to the agency and public that phase-in of new technology will occur ▪ encourages the disposal of conventional marine engines 	<ul style="list-style-type: none"> ▪ moderate burden on public ▪ costly and difficult to monitor and enforce ▪ requires rule making ▪ may leave portions of the public without low cost marine engine alternatives ▪ cannot be required based on air quality concerns 	Yes	Potentially: depending on agency's actions to encourage retirement	Moderate: depends on agency actions to encourage retirement
Surcharge	<ul style="list-style-type: none"> ▪ eliminate the cost differential between conventional marine engines and DFI or 4-stroke engines 	<ul style="list-style-type: none"> ▪ require legislative action ▪ may leave portions of the public without low cost marine engine alternatives ▪ does not ensure disposal of conventional marine engines 	Yes	Potentially: depending on agency's actions to encourage retirement	Moderate: does not encourage the retirement of conventional marine engines
Adoptions of CARB's Rule	<ul style="list-style-type: none"> ▪ moderate burden on public ▪ certainty to the agency by shifting the phase-out schedule forward five years ▪ manufacturers will market new technology ▪ provides education to the public 	<ul style="list-style-type: none"> ▪ requires rule making ▪ requires monitoring of manufacture data ▪ costly to the state to initially administer the program ▪ may leave a portions of the public without low cost marine engine alternatives ▪ does not ensure disposal of conventional marine engines 	Yes	No	Moderate: does not encourage the retirement of conventional marine engines ¹
Permitting Program	<ul style="list-style-type: none"> ▪ public pays to pollute ▪ encourages partnership with the Oregon State Marine Board ▪ can provide funding for a buy-back program 	<ul style="list-style-type: none"> ▪ large burden on public ▪ costly to both the public and state ▪ requires rule making ▪ requires monitoring and enforcement ▪ does not ensure disposal of conventional marine engines 	Yes	Yes	High

¹ CARB's Rule on marine engines has moderate effectiveness for accelerating the retirement of conventional marine engines and replacing them with cleaner technology however, the Rule is very effective at reducing HC+NOx emissions (Personal contact with DEQ Air Quality Staff, 1999).

Works Cited

1. Air Quality Division. Pollution Prevention Tax Credits Fact Sheet. Department of Environmental Quality, Portland, OR. 1996.
2. Air Quality Division. State of Oregon 1992 Attainment Year SIP Emission Inventory. Department of Environmental Quality, Portland, OR. 1992.
3. Allen, Brant C., et. al. Lake Tahoe Motorized Watercraft Report - An Integration of Water Quality, Watercraft Use and Ecotoxicology Issues. University of California, Davis & University of Nevada, Reno. 1998.
4. Apostle Islands National Lakeshore. Apostle Islands National Lakeshore Announces Personal Watercraft Closure. 1999. Apostle Islands web site: www.nps.gov/apis/whatsnew.htm.
5. Audubon Canyon Ranch. Personal Watercraft: Emerging Science. Cypress Grove Preserve, Marshall, CA.
6. Blue Ribbon Panel on Oxygenates in Gasoline. Executive Summary and Recommendations. U.S. Environmental Protection Agency, Washington, DC. 1999.
7. Bluewater Network. Protecting Oceans, Lakes and Rivers for all Living Creatures. Earth Island Institute, San Francisco, CA. 1998.
8. Bluewater Press Release. Two-Stroke Boating Banned on Calero Reservoir Due to Elevated Levels of Gasoline Additive. San Francisco, CA. 1998.
9. Board of County Commissioners. Ordinance No. 019-1998: Defining Personal Watercraft Operation. State of Florida. 1998.
10. Bricklemyer, Eugene C. & Megan Ferguson. Ordinance No. 3-1996: Personal Watercraft Use in the San Juan Islands. San Juan County Planning Department, WA. 1998.
11. Burger, Joanna. Effects of Motorboats and Personal Watercraft on Flight Behavior over a Colony of Common Terns. The Condor, vol. 100, 1998.
12. California Air Resources Board. Fact Sheet: New regulations for gasoline marine engines. California EPA, 1999.
13. California Air Resources Board. Title III: California Regulations for 2001 and Later Model Year Spark-Ignition Marine Engines, California Code of Regulations. California EPA, 1998.

14. City of San Francisco. Article 47, Sections 47.1 to 47.7: Prohibiting the Operation of Personal Watercraft. San Francisco Municipal Code. San Francisco, CA. 1998.
15. Davis, Chip. Personal Watercraft Use to be Regulate in the Parks. 1998. National Park Service web site: www.aqd.nps.gov/pubs/yir/yir98/chapter01/chapter01pg3.html
16. Ericson, Balk L. et. al. Effects of exhaust from two-stroke outboard engines on fish. Institute of Applied Environmental Research, Stockholm University, 1994.
17. Environmental Protection Agency. Final Rule for New Gasoline Spark-Ignition Marine Engines. EPA, vol. 61 no. 194. US EPA, Washington, DC. 1996.
18. Fiore, Mary F., et. al. Interim Report on the Lake Tahoe Motorized Watercraft Study. University of Nevada, Reno. 1998.
19. Giesy, John, P. Untitled. Michigan State University. 1997.
20. Honda Marine. Power in Tune with Nature. American Honda Motor Co., 1999.
21. Keller, Arturo, et. al. Health and Environmental Assessment of MTBE: Report to the Governors and Legislature of the State of California (SB 521). University of California. Los Angels, CA. 1998.
22. Koehler, Michele E. & John T. Hardy. Effects of outboard motor emissions on early development of the killifish *Oryzias latipes*. Western Washington University, 1999.
23. Kratzenberg, Gerhard. Untitled. Federal Office of Transport, Switzerland. 1997.
24. Legislative Counsel Committee. ORS 468B.305: Water Quality, Public Health and Safety, vol. 8. State of Oregon, Salem, OR. 1997.
25. Miller, Glenn C. & Mary Fiore. Preliminary Study on Gasoline Constituents in Lake Tahoe. University of Nevada, Reno. 1997.
26. National Marine Manufacturers Association. Development in Improved Marine Engine Efficiency and Emissions Control. 1998.
27. National Park Service. Personal Watercraft Use Within the NPS System. Department of the Interior, Washington, D.C. 1998. National Park Service web site: www.nps.gov/refdesk/1pwcrule.html.
28. Northwest Fisheries Science Center. An Assessment of Lower Snake River Hydrosystem Alternatives on Survival and Recovery of Snake River Salmonids. National Marine Fisheries Services, National Oceanic and Atmospheric

Administration, Seattle, WA. 1999.

29. Office of Air and Radiation. Control of Air Pollution Emission Standards for New Nonroad Spark-Ignitions Marine Engines, Regulatory Impact Analysis. U.S. Environmental Protection Agency. Washington, DC. 1996.
30. Office of the Federal Register. Code of Federal Regulations, National Pollution Discharge Elimination System, Section 122.3. National Archives and Records Administration. Washington, DC. 1998.
31. Office of Mobile Sources. Methyl Tertiary-Butyl Ether. U.S. Environmental Protection Agency web site: www.epa.gov/oms/consumer/fuels/MTBE/MTBE.htm. 1999
32. Office of Water. Drinking Water Advisory Fact Sheet: Consumer Acceptability Advice and Health Effects Analysis on MTBE. U.S. Environmental Protection Agency. Washington, DC. 1997.
33. Office of Water. Drinking Water and Health Fact Sheets: National Primary Drinking Water Regulations for benzene, ethylbenzene, toluene and xylene. U.S. Environmental Protection Agency. Washington, DC. 1998.
34. Oris, J.T., et. al. Toxicity of ambient levels of motorized watercraft emissions to fish and zooplankton in Lake Tahoe, California/Nevada, USA. University of Bordeaux, France. 1998.
35. Personal Contact with DEQ Air Quality staff. May 15th, 1999.
36. Personal Contact with Honda Marine Division staff. June 7th, 1999.
37. Personal Contact with National Marine Manufacturers Association representatives. May 1999.
38. Personal Contact with Out Board Marine Corporation. July 26th, 1999.
39. Revelt, Jean Marie. The Effects of Marine Engine Exhaust Emissions on Water Quality: Summary of Findings of Various Research Studies. EPA, Ann Arbor, MI. 1994.
40. Reuter, John, et. al. Concentrations, Sources, and Fate of the Gasoline Oxygenate methyl tert-Butyl Ether (MTBE) in a Multiple-Use Lake. Journal of Environmental Science and Technology, vol. 32, no. 23. American Chemical Society. 1998.
41. Seibold-Tison, Karin. Bio-test Studies on the toxicity of organic compounds from boat motor emissions. Department for the Environmental Protection of Baden-

- Wurtemberg, Germany. 1991.
42. Senate Committee on Environment and Public Works. The Clean Water Act as Amended by the Water Quality Act of 1987, Public Law 100-4, Sec. 502 (14). US Government Printing Office, Washington, DC. 1998.
 43. Skippers for Clean Oregon Waters. HB#3621. Salem, OR. 1999.
 44. Solid Waste Program. Solid Waste Tax Credits. Department of Environmental Quality web site: www.deq.state.or.us/wmc/solwaste/swtaxcredit.html. 1999.
 45. Sward, Susan & Jim Doyle. Rising Tide Against Jet Skis: Critics cite accident rate, damage to environment. San Francisco Chronicle, CA. December 30, 1997.
 46. Tahoe Regional Planning Agency. Ordinance No. 99-3. 1997.
 47. Tahoe Research Group. The Use of 2-Cycle Engine Watercraft on Lake Tahoe: Water Quality and Limnological Considerations. University of California, Davis. 1997.
 48. Tax Credit Program. Oregon Business Energy Tax Credits Fact Sheet. Oregon Office of Energy web site: www.cbs.state.or.us/external/ooe/cons/betc.htm. 1999.
 49. Tjarlund, Ulla, et. al. Investigation of the Biological Effects of 2-Cycle Outboard Engines' Exhaust on Fish. Marine Environmental Research. Elsevier Sciences Limited, Great Britain. 1995.
 50. Tjarlund, Ulla, et. al. Further Studies of the Effects of Exhaust from Two-Stroke Outboard Motors on Fish. Marine Environmental Research. Elsevier Sciences Limited, Great Britain. 1996.
 51. USGS. Survey of Manmade-Organic Compounds in Lake Tahoe and Selected Tributaries; Fact Sheet FS-055-98. U.S. Department of the Interior, Washington, DC. 1998.
 52. Wark, Kenneth & Cecil F. Warner. Air Pollution: Its Origin and Control, Second Edition. Harper and Row, Publishers, New York. 1981.
 53. Watercraft Registration Division. Registered Boat Inventory. Oregon State Marine Board, Salem, OR. 1998.
 54. Weden v. San Juan County, No. 64776-3, slip op. at 8-9. Olympia, WA. July 9, 1998.

Department of Environmental Quality

Memorandum

To: Environmental Quality Commission and Interested persons

From: Lauri Aunan, Assistant to the Director
Department of Environmental Quality

Date: September 7, 1999

Subject: Final Status of 1999 Legislation

This is an update of an August memorandum on the status of legislation from the 1999 Legislative Session. Governor Kitzhaber took final action on bills on September 3.

The 70th Oregon Legislative Assembly spent much of its time addressing budget issues. As in 1997, funding for Oregon schools and transportation consumed much of the discussion. Funding for natural resource agencies was a priority for Governor Kitzhaber.

The major environmental bills of the session were passage of a new law to track pesticide use (HB 3602); implementation of Ballot Measure 66, the Parks and Salmon Initiative (HB 3225), and passage of a state Community Right to Know law (HB 2431).

Attached is a list of bills affecting DEQ that passed during the 1999 legislative session. The Governor signed some of these bills, and vetoed others. After mid-September, a list of new laws will be available on DEQ's web site at <http://www.deq.state.or.us>, or by calling or writing DEQ.

The attached list is limited to bills that in some way pertain to DEQ's clean air, clean water and waste management work, or that affect how DEQ conducts its work. It does not include bills that address other agencies' work (e.g., pesticide use reporting for Department of Agriculture or water supply legislation for the Water Resources Department).

A brief description and some explanation is provided for each bill. This is intended to convey the main points of the bill. However, the explanation may not mention or describe all the provisions in a particular bill.

You may obtain any of these bills either by accessing the legislative web site at <http://www.leg.state.or.us>, or by calling the legislative publication office at (503) 986-1190. If you would like additional information about this list, please call Lauri Aunan at (503) 229-5327, or email: aunan.lauri@deq.state.or.us.

Summary of 1999 Legislation

1. DEQ Bills Introduced

DEQ Bills Passed

Update On-site Sewage Program, SB 335 – Properly installed and maintained septic systems protect people and the environment from exposure to sewage on the ground and in water. DEQ regulates the installation, repair and pumping of septic systems in 14 counties; counties manage the program in 22 counties. SB 335 allows DEQ to enter into agreements with counties as contract agents to administer the program, give local governments flexibility to set fees that vary from fees adopted by the Environmental Quality Commission, address licensing requirements, and allow inspection of pre-1974 septic systems to ensure they still protect land and water from exposure to sewage. **Governor signed.**

Representational Standing for Title V Air Permits, HB 2180 - The Environmental Protection Agency (EPA) has approved Oregon's administration of federal Clean Air Act, Clean Water Act and RCRA (waste) laws. Without this "delegation," the EPA would administer these programs in Oregon. In 1998 EPA issued a Notice of Deficiency for Oregon's Title V clean air permit program, indicating that Oregon's program is deficient and at risk because Oregon law does not allow third parties to legally challenge DEQ action on these federally delegated permits. HB 2180 provides standing to third parties for the issuance of federally delegated air quality permits, in order for Oregon to continue administering the Title V federal permit program. **Governor signed.**

Convert Petroleum Load Fee to General Fund, HB 2183 – The petroleum load fee was paid to the Department of Revenue each time a petroleum tanker truck loaded at an oil terminal. The fee was established by the Oregon Legislature in 1989 to pay for DEQ's hazardous substance and spill response, cleanup of orphan sites and assistance for underground tank owners. The 1993 Legislature restructured the fee to ensure compliance with the State Constitutional provision requiring motor vehicle fuel fees to be used for highway related purposes. HB 2183 "clears the books" on petroleum load fees collected before 1993 (but not spent) by converting the moneys to the General Fund. **Governor signed.**

Underground Tank Leak Prevention, HB 2186 – To protect groundwater from pollution, federal law requires regulated underground storage tanks (not heating oil tanks) to be upgraded or replaced by December 22, 1998. HB 2186 provides a two-year, \$60 per tank fee to maintain a level of effort to ensure that 1) newly installed tanks operate properly and continue to prevent leaks and spills to soil and groundwater and 2) tanks being taken out of service are properly decommissioned to avoid future leaks that could contaminate soil and groundwater. The \$60 per tank fee reverts to \$35 per tank after two years. The level of effort and funding needed for this program will be reviewed by DEQ and the Legislature in the 2001 session based on work accomplished in the next two years and the program needs. **Governor signed.**

DEQ Bills Not Passed

Verifying Solid Waste Tonnage Reporting, SB 336 - Solid waste disposal sites operate under permits issued by DEQ. Fees for the solid waste permit program are paid based on tons of solid waste disposed at the sites. The law prohibits access to financial records to verify tons disposed. As a result, DEQ cannot verify tonnage reported by the permit holders. SB 336 would have allowed DEQ access to certain financial records of solid waste disposal site permit holders to verify accuracy and completeness of solid waste tonnage reporting. Access to records of revenues collected or received would allow DEQ to more efficiently and accurately determine if fee reporting was complete. DEQ will work with the solid waste disposal industry during the interim to determine if a solution can be found.

Clarify Authority to Regulate 4th Priority Agricultural Burning, SB 337 – “4th priority agricultural burning” refers to open agricultural burning in the Willamette Valley, other than field burning. The current statutes are not clear with respect to authority to regulate open agricultural burning other than field burning. SB 337 would have clarified the authority of DEQ and the Department of Agriculture to regulate open agricultural burning to protect air quality. This bill did not get a hearing. Willamette Valley Christmas tree farmers “gutted and stuffed” the bill to provide a partial exemption for open burning of Christmas trees outside of field burning season. This bill passed and was signed by the Governor based on DEQ’s assessment that open burning of Christmas trees is not a significant air quality concern. DEQ will be tracking any problems that may arise from this legislation.

Rulemaking Hearings, SB 338 – Under the Oregon Administrative Procedure Act, agencies are required to hold public hearings on rule changes when 10 or more persons request a hearing. The DEQ’s enabling statutes require DEQ to hold hearings on every proposed rule change, no matter how minor. SB 338 would have brought DEQ statutes into line with the Administrative Procedures Act. DEQ would still be required to take written public comments on all rule changes and be required to hold a hearing when 10 or more persons request a hearing. This bill did not receive a hearing.

Expand Pollution Prevention Tax Credits, SB 339 - The 1995 Legislature approved a pilot program and allocated \$5.2 million to encourage certain businesses to install pollution prevention equipment. To date, about 20 businesses have received tax credits. The \$5.2 million cap has not been reached; about \$3 million remains. SB 339 would have expanded the program, allowing more businesses to receive a tax credit for pollution prevention equipment, including technologies that (1) eliminate hazardous wastewater discharges through wastewater reuse or recycling; (2) eliminate use of certain hazardous air pollutants; (3) provide space for recycling at commercial and multi-family buildings; and (4) provide for improved resource efficiency at facilities. This bill did not receive a hearing.

Update Pollution Control Tax Credits, HB 2181 – Since 1967, this program has provided a tax credit of 50% of the cost of facilities required to comply with environmental laws. For 1997-99, Oregon’s estimated biennial tax loss under this program is \$25 million. DEQ’s bill is intended to start a policy discussion about the pollution control tax credit. The bill would have limited the tax credit to pollution control facilities required to meet compliance standards that are more

stringent than federal requirements and required to meet future, new federal requirements more stringent than existing federal requirements. The bill had one hearing during which Associated Oregon Industries and other business groups opposed the bill. Later, the Oregon Farm Bureau "guttled and stuffed" the bill to remove everything in the bill except language recognizing that non-point source pollution control facilities are eligible for the tax credit. As amended, this bill passed the Legislature and was signed by the Governor.

Tying Fees to the Consumer Price Index, HB 2182 – The amount of General Fund DEQ receives has decreased over the years. Currently, General Fund covers about 17% of DEQ's costs. Most of DEQ's environmental work is funded through fees. There is no mechanism for these fees to keep pace with the cost of living and, in the past, resulted in DEQ asking for big fee increases every several years just to cover existing costs. HB 2182 sought a way to cover cost increases due to inflation by automatically adjusting certain fees based on the Consumer Price Index. This bill was opposed by fee payers groups and did not receive a hearing.

Homeowners' Heating Oil Tanks Assistance, HB 2184 and 2185 – DEQ receives thousands of requests each year to assist homeowners and prospective buyers of homes who are concerned about potential leaks from heating oil tanks on their property. DEQ has two concepts that address heating oil tanks. One concept switches the collection of the surcharge on heating oil to the Department of Revenue. These funds would pay for DEQ assistance to homeowners and provide grants for closing out tanks in an environmentally sound manner. Another concept would require a heating oil tank to be emptied of oil to prevent future leaks that could contaminate soil and groundwater. An optional fee is provided for DEQ to review this process and provide a written record that it was done. These bills did not receive a hearing. Instead, DEQ worked with the petroleum industry and interested legislators on a compromise set of bills, HB 3107 and SB 542 (see below). Neither bill provides funds for assistance to homeowners.

Keeping Track of Hazardous Waste, HB 2187 – To safeguard people's health and the environment, DEQ tracks the management of hazardous waste "from cradle to Grave" (generation, transportation, disposal). Statutory authority for DEQ to require documentation of hazardous waste transport is clear for air and water transporters. However, there is no clear statutory authority for DEQ to require documentation from land transporters (e.g., trucks, trains carrying hazardous waste). HB 2187 would have clarified that DEQ has the authority to require land transporters of hazardous waste to provide documentation of the handling and disposal of hazardous waste. This bill did not receive a hearing. DEQ will work with the Oregon Trucking Association during the interim to pursue a solution before the 2001 session.

2. Bills Passed Affecting DEQ

Water Quality

HB 2162 – Establishes an annual fee for hydroelectric projects and project-specific fees to compensate state agencies for work during reauthorization, relicensing. Portion of fees collected by Water Resources Dept. for DEQ work. Requires Water Resources Director to appoint a review panel, including DEQ, to review the amount of the annual fee in 2003 and 2009.

Governor signed.

HB 2881 – Directs interim legislative committee to study issues related to management of stormwater and sediment control. Directs all state agencies to provide assistance upon request. **Governor signed.**

HB 3225 - Implements Ballot Measure 66, the Parks and Salmon Initiative. Creates new state agency, the Oregon Watershed Enhancement Board, to coordinate the Oregon Plan for Salmon and Watersheds and oversee grants to local projects. 11 voting members, including EQC representative. Five non-voting members representing federal agencies. 50% of funding to Parks Subaccount and 50% to Restoration and Protection Subaccount. 65% of the funding in the Restoration subaccount must be used for capital expenditures. Allows state and federal agencies to apply for funding only as co-applicant with eligible entity. Provides for appointment of executive director by Governor, subject to Senate confirmation. Requires OWEB to report biennially to the Legislature on grants awarded and information about the use of moneys received and distributed by OWEB. **Governor signed.**

SB 132 – Changes membership of Healthy Streams Partnership. The Governor, the President of the Senate and the Speaker of the House of Representatives appoint Healthy Streams Partnership of 21 members:

- (a) Seven members representing watershed groups or soil and water conservation districts;
- (b) One member representing tribal governments, who lives east of the Cascade Mountains;
- (c) One member representing tribal governments, who lives west of the Cascade Mountains;
- (d) Two members representing environmental or wildlife conservation groups; and
- (e) Ten members representing in-stream and out-of-stream beneficial uses of water, including but not limited to agricultural, recreational, industrial, municipal and silvacultural uses.

Governor signed.

SB 133 – Expands the scope of the Joint Legislative Committee on Stream Restoration and Species Recovery to consider issues related to the Oregon Plan and other issues related to water quality, stream restoration and species recovery generally. **Governor signed.**

SB 657 – Requires Environmental Quality Commission to establish program to regulate collection, storage, transportation, treatment and disposal of septage upon request of county. Authorizes DEQ to recover costs from county. **Governor signed.**

SB 1152 – Section 3 requires any rule pertaining to recreational or small scale mining adopted after the effective date of the bill to be adopted “in consultation with affected parties.” Bill also creates new violation for trespass and vandalism of mining sites. **Governor signed.**

SB 1189 – Requires DEQ to provide a new public process for enforcement of water quality violations at the request of a person who has received a notice of civil penalty or formal enforcement action. If the new public process is found to be “comparable” with the federal Clean Water Act enforcement structure, use of this new public process may shield a party from third party lawsuits for the violation. **Governor signed.**

Vetoed Water Quality Bills

HB 2652 – Eliminated DEQ authority to require permits for agriculture return flows, unless permits required by federal law. (Note: DEQ does not currently require permits for agricultural return flows).

SB 675 - Required DEQ to waive 401 certification for projects on federal land and attempted to give Oregon Department of Agriculture exclusive authority to regulate water quality on farm land.

SB 1166 - Restricted DEQ authority to designate outstanding resource waters.

Air Quality

HB 3455 – Requires DEQ to provide extended evening hours at Portland-area vehicle pollution testing stations. **Governor signed.**

SB 337 – Exempts burning of residue from Christmas tree farms from open burning regulation during part of the year. **Governor signed.**

Vetoed Air Quality Bills

HB 2637 – Required DEQ to exempt from pollution testing vehicles registered in Yamhill and Columbia counties, where owners sign statement that vehicle is not used to commute to Portland metro area.

Waste Management and Cleanup

HB 2431 -- Creates a Community Right to Know Technical Committee including the Department of Agriculture, DEQ, State Fire Marshal, Health Division, Department of Transportation, and the Governor. Requires the Committee to develop a plan to enhance and improve public access to public records pertaining to hazardous and toxic substance data. Requires report to the 71st Legislative Assembly. Requires the Director of DEQ to establish a governmental policy group to explore options for enhancing statewide hazardous and toxic substance reporting and data collection. Requires report to the Governor and the 71st Legislative Assembly. Sets conditions for local “community right to know” laws. **Governor signed.**

HB 2800 – Extends temporary schedule for monthly hazardous waste fees paid to DEQ to December 31, 2001. Adds hazardous waste management fee for certain emission control dust of sludge from certain steel production, provided that the facility has a plan and schedule for treatment of such waste approved by DEQ. **Governor signed.**

HB 3107 – Requires the EQC to adopt rules for a heating oil tank program to regulate the decommissioning of heating oil tanks and corrective action of soil contamination resulting from heating oil tank leaks. The program shall include a procedure to license contractors who show DEQ they can provide heating oil tank services, an educational pamphlet on proper

decommissioning of tanks, and a certification program that allows DEQ to certify voluntary decommissioning of tanks or approve a cleanup of contamination. Provides for annual license fee for licensed contractors. Requires person who is converting from heating oil to different heating source to ensure that the tank is emptied of oil. **Governor signed.**

HB 3201 – Allows a local citizens advisory committee for solid waste issues to fulfill duties of a regional disposal site advisory committee. **Governor signed.**

HB 3616 – Modifies cleanup law to allow “excavation and off-site disposal” to be equivalent to treatment when choosing the remedy for “hot spots” cleanup. Requires DEQ Director to consider the method and distance of transportation when approving “excavation and off-site disposal.” Allows DEQ to include a hazardous waste recycling operation in an existing hazardous waste permit. Removes legitimate hazardous waste recycling operations from hazardous waste facility siting law. Defines which requirements of the hazardous waste facility siting law apply to renewals of hazardous waste permits, clarifying questions about existing rules. Requires disposal fees paid to DEQ to be considered when DEQ considers bids or proposals to clean up contaminated sites. **Governor signed**

SB 542 - Eliminates the Oil Heat Commission, including the 1997 law that would have provided grants to homeowners with heating oil tank problems. Requires pumpout of tanks when taken out of service. Requires formation of an advisory committee to investigate ways to lower cleanup costs. HB 3107 is a related bill that partially replaces programs eliminated by SB 542 by changing DEQ’s role to overseeing contractors, instead of each tank project, and utilizing contractor certifications to ensure the work is performed correctly. Neither SB 542 nor HB 3107 provide financial assistance for homeowners. **Governor signed.**

SB 940 – Changes existing law that requires glass container manufacturers to use recycled glass in new containers when they sell them to Oregon packagers. Limits the requirement to use 35% recycled glass to plants within 750 miles of Oregon’s borders. This covers the dozen glass plants on the West Coast and they primarily serve the Oregon market. Requires glass plants beyond 750 miles to report to DEQ if annual sales exceed 1000 tons. Postpones implementation of the 50% recycled glass requirement until 2004. (Note: there is a glass plant in Seattle that can’t make the 35% requirement. The Department will use a consent order to put that plant on a schedule to comply.) **Governor signed.**

SB 1089 – Changes existing law regarding administration of funding for “self-insurance” by dry cleaners for cleanup of contamination from dry cleaning chemicals. Requires dry cleaners to display a certificate that the dry cleaner fee has been paid, and requires the Dept. of Revenue to annually make available a list of who has paid the fees. No changes were made to the fee structure. **Governor signed.**

SB 1205 – Provides for changes in Oregon law as applied to insurance coverage for cleanup of environmental contamination. The bill provides that 1) Oregon law applies to claims when cleanup of contaminated sites occur in Oregon, unless the policy provides that the laws of other states apply; 2) cleanup agreements with DEQ and EPA are equivalent to lawsuits when those terms are used in insurance policies; and 3) fees and costs under voluntary cleanup agreements

and consent orders with DEQ or EPA are not considered voluntary payments when insurance claims are made. **Governor signed.**

SB 5544 – Authorizes funding, passed through DEQ, to upgrade underground storage tanks at 10 rural gas stations. The bill appropriated 97-99 funds. All grant projects were completed by 6/30/99. **Governor signed.**

SB 1113 - Allows use of the Orphan Site Account (state funds used for cleanup of “orphan site” contaminated sites) for cleanup of submerged lands (e.g. Coos Bay, Portland Harbor). **Governor signed.**

Vetoed Waste Management and Cleanup Bills

HB 3456 – Required DEQ to implement independent cleanup program for contaminated sites. Created Governor-appointed, Senate-confirmed panel to hear property owner appeals of DEQ cleanup requirements for independent cleanup sites. Allowed independent cleanup sites to avoid cleanup or treatment of “hot spots” – the most toxic areas -- of contamination.

Laboratory

HB 2177 – Allows the Oregon Health Division, DEQ and Department of Agriculture to develop standards for any laboratory that voluntarily seeks accreditation and performs environmental testing for a fee or for determining compliance with environmental law. Health Division to adopt rules to implement the environmental laboratory accreditation program. **Governor signed.**

Tax Credits

HB 2181 – Amends existing pollution control tax credit statute to specify that nonpoint source pollution control facilities are eligible for pollution control tax credits. DEQ believes this does not change existing law, but emphasizes the eligibility of nonpoint source pollution control facilities. **Governor signed; law is effective October 23, 1999.**

HB 3606 – Provides that certain pulp and paper mills can transfer pollution control tax credit to lender/contract buyer. **Governor signed.**

Vetoed Tax Credit Bills

HB 3202 – Extended sunset date for pollution control tax credit statute to 2009.

General/Admin/Agency Management

HB 2378 – Format and timing for submission of agency to Legislative Counsel. **Governor signed.**

HB 2525 – Creates pilot program for central hearing coordination for state agencies, through the Employment Department. Hearings officers will be assigned through the central pool. After two years, hearings officers must meet new standards and training qualifications. Hearings must be held under the new standards in two years. **Governor signed.**

HB 2088 - Creates Community Development Incentive Project Fund to promote community development. Creates Community Development Incentive Advisory Board, including Director of DEQ, to develop fund guidelines and recommend projects. **Governor signed.**

HB 3035 – Before the adoption, amendment or repeal of any rule, state agencies shall give notice of its intended action:

- (a) In the manner established by rule adopted by the agency under ORS 183.341 (4);
- (b) In the bulletin referred to in ORS 183.360 at least 21 days prior to the effective date; and
- (c) At least 28 days before the effective date, to persons who have requested notice; and
- (d) At least 49 days before the effective date, to specified legislators and legislative committees.

Governor signed.

HB 3174 – Removes authority for state agencies to introduce legislation to Legislative Counsel. Allows DAS to file legislation to implement Governor's budget recommendations; allows Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of BOLI and Superintendent of Public Instruction to file legislation. Allows state agencies to file legislation through a member or committee of the Legislative Assembly. **Governor signed.**

HB 3182 – Requires Governor to prepare alternative budget plan for state agencies that provides 90 percent of amounts proposed in actual budget. Requires alternative plan to describe programs and activities that would not be undertaken under alternative budget. **Governor signed.**

HB 3509 – Requires state agencies to submit by October 1 each year a report to the Legislative Fiscal Office describing the status of the agency's liquidated and delinquent accounts and efforts made to collect the accounts. With some exceptions, state agencies shall offer for assignment every liquidated and delinquent account to a private collection agency. **Governor signed.**

SB 671 - A state agency that enters into an agreement under ORS 190.110, 190.420 or 190.485 on or after the effective date of this 1999 Act shall submit a summary of the agreement to the Oregon Department of Administrative Services within the 30 days after the effective date of the agreement. A state agency that, before the effective date of this 1999 Act, entered into an agreement under ORS 190.110, 190.420 or 190.485 that will be in effect 90 days after the effective date of this 1999 Act shall submit a summary of the agreement to DAS within 90 days after the effective date of this 1999 Act. **Governor signed.**

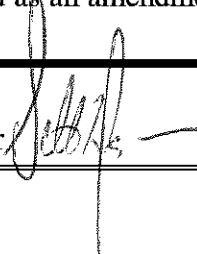
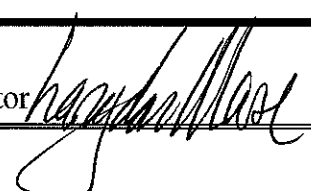
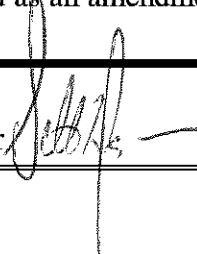
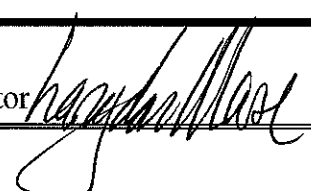
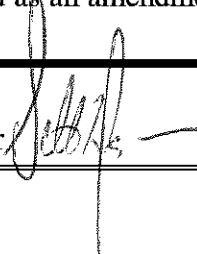
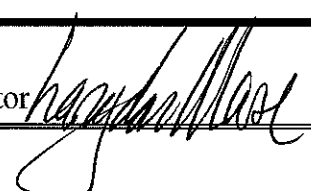
SB 774 – Extends sunset of DEQ green permits program to December 31, 2003. **Governor signed.**

SB 1320 - Creates new legislative office of natural resources. The President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives, shall select the Natural Resources Policy Administrator by unanimous agreement. **Governor signed.**

Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item E
October 1, 1999 Meeting

Title: Air Quality Rules Reorganization and Non-substantive Changes: Divisions 20 through 34			
Summary: This purpose of this rulemaking is to reorganize and relabel Air Quality OARs 340, Divisions 20 through 34. This rulemaking is intended to increase the efficiency of the Air Quality permitting and compliance process, and is the first step of future rule streamlining planned by the Department over the coming year. The reorganization includes repealing non-applicable and duplicative rules to eliminate conflicts and purge outdated requirements. This action will make the Air Quality Rules easier to use and understand by both the Department and the regulated community.			
Department Recommendation: The Department recommends that the Commission adopt the Air Quality rule reorganization as shown in Attachment A. It is recommended that the revisions and renumbering on the SIP rules be adopted as an amendment to the State Implementation Plan.			
<table style="width: 100%; border: none;"><tr><td style="width: 33%; border: none;">Report Author </td><td style="width: 33%; border: none; text-align: center;">Andrew Ginsberg Division Administrator</td><td style="width: 33%; border: none; text-align: right;">Director </td></tr></table>	Report Author 	Andrew Ginsberg Division Administrator	Director 
Report Author 	Andrew Ginsberg Division Administrator	Director 	

State of Oregon
Department of Environmental Quality Memorandum

Date: September 13, 1999
To: Environmental Quality Commission
From: Langdon Marsh
Subject: Agenda Item E, EQC Meeting October 1, 1999.
Air Quality Rules Reorganization and Non-substantive Changes: Divisions 20 through 34

Background

On June 14, 1999, the Director authorized the Air Quality Division to proceed to a rulemaking hearing on proposed rules to renumber, and re-label Air Quality OAR Divisions 20 through 34. This reorganization would also repeal non-applicable and redundant rules as non-substantive changes.

Pursuant to the authorization, hearing notice was published in the Secretary of State's Bulletin on July 1, 1999. The Hearing Notice and informational materials were mailed to the mailing list of those persons who have asked to be notified of rulemaking actions, and to a mailing list of persons known by the Department to be potentially affected by or interested in the proposed rulemaking action on June 23, 1999.

A Public Hearing was held July 26, 1999 with Dave Nordberg serving as Presiding Officer. Written comment was received through July 29, 1999. The Presiding Officer's Report (Attachment C) summarizes the hearing and states that no oral or written testimony was presented at the hearing. The Department received written comment from Stole Rives Attorneys in response to this rulemaking on July 29, 1999.

The following sections list key terms, and summarize the proposed rulemaking action.

Key Words and Acronyms

SIP: State Implementation Plan (OAR 340-020-0047) required by the Clean Air Act.
CFR: Code of Federal Regulations

Issue This Proposed Rulemaking Action is Intended to Address

This rulemaking is part of the Department's efforts to reduce time and resources in the Air Quality permitting process while maintaining environmental protection. The existing air quality rules are disorganized and cumbersome. More efficient rules are needed by the Department to administer the permitting process, and more understandable and user friendly rules are needed by the regulated

community to comply with permitting requirements. This effort will also provide the basis for future rule streamlining planned by the Department over the coming year.

Relationship to Federal and Adjacent State Rules

This rulemaking is a recodification of Air Quality OAR Divisions 20 through 34. The U.S. Environmental Protection Agency (EPA) requires that any State Implementation Plan (SIP) codification changes must go to public comment. This rulemaking, if adopted, will be submitted to EPA as a revision to the SIP; OAR340-020-0047, which is a requirement of the Clean Air Act. This proposal will also be submitted to EPA as an amendment to federally delegated or approved programs, including the Title V Permit Program, New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPs). This proposal merely renumbers existing state rules, and does not change their relation to federal or state law.

Authority to Address the Issue

The Commission's SIP revision authority resides in ORS468A.035. The Commission's statutory authority to establish and adopt air quality rules and standards resides in ORS 468.020 and ORS 468A.025. The Commission's statutory permitting authority resides in ORS 468A.040.

Process for Development of the Rulemaking Proposal (including Advisory Committee and alternatives considered)

This rulemaking is one part of the Department's permitting improvement efforts. Over the previous year, the Department conducted internal efficiency reviews to evaluate work priorities and identify improvement opportunities. One recommendation was to streamline the Air Quality rules by: 1) reorganizing their context and removing outdated requirements, then 2) clarifying the rules to improve their use to the permitting process. This rulemaking is step 1, the reorganization step, and is non-substantive. Outdated rules will be repealed and clarifications will be made now. Because no substantive changes are being proposed, an advisory committee will was not convened.

Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved.

This proposed rulemaking addresses the need to reorganize Air Quality OAR Divisions 20 through 34 and improve the permitting process. The Department proposes to renumber and re-label existing rules to more accurately describe their content. In addition, non-applicable and duplicative rules will be repealed to eliminate conflicts and purge outdated requirements. Department staff and the regulated community will save significant time and effort by using rules that are easier to apply.

Summary of Significant Public Comment and Changes Proposed in Response

The Department received two comments from Stole Rives Attorneys. One raised an issue regarding the placement of reorganized definitions that would result in possible substantive changes. The other comment referred to the Department's intention to not incorporate any unintended non-SIP provisions in the SIP. Regarding both comments, Stole Rives requested that the EQC explicitly state that these rules will not incorporate any existing non-SIP rules into the State Implementation Plan, and that no substantive changes are intended when adopting the rule reorganization. As the proposed changes are not substantive, and do not incorporate any additional non-SIP rules into the SIP, The Department is not proposing any changes in response to these comments.

Air Quality staff also provided comment regarding corrections to cross-references, CFR references, proposed repeals of duplicative rules, and definition applicability. The Department's evaluation of the comments is included in this package as Attachment D. The Department is proposing to make the corrections and clarifications suggested by Air Quality staff.

Summary of How the Proposed Rule Will Work and How it Will be Implemented

All Air Quality staff have been informed of the context and progress of this rulemaking effort. Air Quality staff provided a significant amount of input to reorganize these rules as well. After adoption of his rule, all interested and affected parties will be notified; cross-references and new rule numbering will be provided. Permitted sources will be informed of the new rule references at permit modification and renewal.

Recommendation for Commission Action

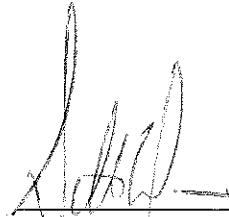
It is recommended that the Commission adopt the Air Quality rule reorganization, as shown in Attachment A. It is recommended that the revisions and renumbering on the SIP rules be adopted as an amendment to the State Implementation Plan.

Attachments

- A. Rule Index, and Proposed Air Quality Rules for Adoption
- B. Supporting Procedural Documentation:
 - 1. Legal Notice of Hearing
 - 2. Fiscal and Economic Impact Statement
 - 3. Land Use Evaluation Statement
 - 4. Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements
 - 5. Cover Memorandum from Public Notice
- C. Presiding Officer's Report on Public Hearing
- D. Department's Evaluation of Public Comment
- E. Rule Implementation Plan

Memo To: Environmental Quality Commission
Agenda Item E, EQC Meeting October 1, 1999
Page 4

Approved: Section:
 Division:



Andrew Ginsburg

Report Prepared By: Scott Manzano
Phone: (503) 229-6156
Date Prepared: September 6, 1999

Attachment A

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal for Rules Renumbering and Non-substantive Changes

Proposed Rule Changes

New Rule Number	Proposed Rule/Division and Title	Old Rule Number
DIVISION 200		
GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS		
General		
200-0010	Purpose and Application	*****
	NOTE: New Rule. The Department will provide non-substantive language here to describe the purpose and the application of Division 200.	
200-0020	General Air Quality Definitions	028-0110, 020-0205
	NOTE: Revised title (changed from: "Definitions"). The Department will also add the definitions from former rule 020-0205.	
200-0030	Exceptions	020-0003
200-0040	State of Oregon Clean Air Act Implementation Plan	020-0047
200-0050	Compliance Schedules	028-0700
Conflicts of Interest		
200-0100	Purpose	020-0200
200-0110	Public Interest Representation	020-0210
200-0120	Disclosure of Potential Conflicts of Interest	020-0215
DIVISION 202		
AMBIENT AIR QUALITY STANDARDS AND PSD INCREMENTS		
202-0010	Definitions	031-0005
Ambient Air Quality Standards		
202-0050	Purpose and Scope of Ambient Air Quality Standards	031-0010
202-0060	Suspended Particulate Matter	031-0015
202-0070	Sulfur Dioxide	031-0020
202-0080	Carbon Monoxide	031-0025
202-0090	Ozone	031-0030
202-0100	Nitrogen Dioxide	031-0040
202-0110	Particle Fallout	031-0045
202-0120	Calcium Oxide (Lime Dust)	031-0050
202-0130	Ambient Air Quality Standard for Lead	031-0055
PSD Increments		
202-0200	General	031-0100

202-0210	Ambient Air Increments	031-0110
202-0220	Ambient Air Ceilings	031-0115

**DIVISION 204
DESIGNITION OF AIR QUALITY AREAS**

204-0010	Definitions	031-0500
	NOTE: The Department will move the descriptions of Rogue Basin and Umpqua Basin from 204-0070 here. The Department will also add the Klamath Falls and Grants Pass descriptions from 022-0470, and the Portland Vehicle Inspection Area description from 024-0301. The Department will also add definitions for the acronyms UGA, and UGB.	
204-0020	Designation of Air Quality Control Regions	031-0510
	NOTE: Revised title (changed from: "Air Quality Control Regions").	
204-0030	Designation of Nonattainment Areas	031-0520
	NOTE: Revised title (changed from: "Nonattainment Areas").	
204-0040	Designation of Maintenance Areas	031-0530
	NOTE: Revised title (changed from: "Maintenance Areas").	
204-0050	Designation of PSD Areas	031-0120
	NOTE: Revised title (changed from: "Restrictions on Area Classifications").	
204-0060	Redesignation of PSD Areas	031-0130
	NOTE: Revised title (changed from: "Redesignation").	
204-0070	Special Control Areas	021-0010
	NOTE: The Department will add language to this rule to cross-reference to the Visible Air Contaminant Limitations rule 208-0110 (former rule 021-0015). The Department will move the description for Rogue Basin and Umpqua Basin in this rule to 204-0010 to include as definitions.	
204-0080	Motor Vehicle Inspection Boundary Designations	024-0301
	NOTE: Revised title (changed from: "Boundary Designations"). The Department will move the description for Portland Vehicle Inspections Area to rule 204-0010 to include as definitions.	
204-0090	Oxygenated Gasoline Control Areas	022-0470
	NOTE: Revised title (changed from: "Control Areas"). The Department will move the description for Klamath Falls and Grants Pass to rule 204-0010 to include as definitions.	

**DIVISION 206
AIR POLLUTION EMERGENCIES**

206-0010	Introduction	027-0005
206-0020	Definitions	*****
	NOTE: New rule. Placeholder for future definitions.	
206-0030	Episode Stage Criteria for Air Pollution Emergencies	027-0010
206-0040	Special Conditions	027-0012
206-0050	Source Emission Reduction Plans	027-0015
206-0060	Regional Air Pollution Authorities	027-0025
206-0070	Operations Manual	027-0035

**DIVISION 208
VISIBLE EMISSIONS AND NUISANCE REQUIREMENTS**

208-0010	Definitions	021-0005, 030-0010, 021-0050
----------	-------------	------------------------------------

NOTE: New rule merging definitions from three Divisions. The Department will add (copy) the definitions from rule 226-0010 (former rule 021-0005) and use as the basis for Division 208 definitions but will delete the definitions for "Coastal Areas", and "Municipal Waste Incinerator" because they were not used in former Division 21. The Department will copy the applicable definitions from 240-0030 (former rule 030-0010) and will also move the nuisance requirement definition (from former rule 021-0050) here. An additional definition for "Special Control Area" will be added, referencing the existing designation defined in Division 204.

Visible Emissions

208-0100 Applicability 021-0012

NOTE: New rule. The Department will copy rule 226-0200 (former rule 021-0012) here because it also applies to this Division

208-0110 Visible Air Contaminant Limitations 021-0015

NOTE: The Department will also add language to this rule to cross-reference Special Control Areas rule 204-0070.

Nuisance Requirements

208-0200 Applicability 021-0055

208-0210 Requirements 021-0060

Clackamas, Columbia, Multnomah, and Washington Counties

208-0500 Application 030-0400

208-0510 Exclusions 030-0410

208-0520 Incinerators and Refuse Burning Equipment 030-0420

208-0530 Concealment and Masking of Emissions 030-0430

208-0540 Effective Capture of Air Contaminant Emissions 030-0440

208-0550 Odor Control Measures 030-0450

208-0560 Storage and Handling of Petroleum Products 030-0460

208-0570 Ships 030-0470

208-0580 Upset Condition 030-0480

208-0590 Emission Standards -General 030-0490

208-0600 Visible Air Contaminant Standards 030-0500

208-0610 Particulate Matter Weight Standards 030-0510

208-0620 Particulate Matter Size Standard 030-0520

208-0630 Sulfur Dioxide Emission Standard 030-0530

208-0640 Odors 030-0540

Benton, Linn, Marion, Polk, and Yamhill Counties

208-0650 Application 030-0600

208-0660 Odors 030-0610

208-0670 Particulate Matter Size Standard 030-0620

DIVISION 210

STATIONARY SOURCE NOTIFICATION REQUIREMENTS

210-0010 Applicability 028-0200

NOTE: The Department will copy this rule to rule 214-0020 because is also applies to stationary source reporting.

210-0020 Definitions *****

NOTE: New rule. Placeholder for future definitions.

Registration

210-0100 Registration in General 028-0500

210-0110 Registration Requirements 028-0510

210-0120 Re-Registration 028-0520

Notice of Construction and Approval of Plans

210-0200 Requirement 028-0800

210-0210 Scope 028-0810

210-0220 Procedure 028-0820

**DIVISION 212
STATIONARY SOURCE TESTING AND MONITORING**

212-0010 Definitions *****

NOTE: New rule. Placeholder for future definitions.

Sampling, Testing and Measurement

212-0110	Applicability	028-0900
212-0120	Program	028-1100
212-0130	Stack Heights and Dispersion Techniques	028-1110
212-0140	Methods	028-1120
212-0150	Department Testing	028-1130
212-0160	Records; Maintaining and Reporting	028-1140

Compliance Assurance Monitoring

212-0200	Applicability	028-1200
212-0210	Monitoring Design Criteria	028-1210
212-0220	Submittal Requirements	028-1220
212-0230	Deadlines for Submittals	028-1230
212-0240	Approval of Monitoring	028-1240
212-0250	Operation of Approved Monitoring	028-1250
212-0260	Quality Improvement Plan (QIP) Requirements	028-1260
212-0270	Reporting and Recordkeeping Requirements	028-1270
212-0280	Savings Provisions	028-1280

**DIVISION 214
STATIONARY SOURCE REPORTING REQUIREMENTS**

214-0010 Definitions *****

NOTE: New rule. Placeholder for future definitions.

Reporting

214-0100	Applicability	028-0200
NOTE: The Department will copy rule 210-0020 here because it also applies to stationary source reporting.		
214-0110	Request for Information	028-0300
214-0120	Enforcement	028-0310
214-0130	Information Exempt from Disclosure	028-0400

Emission Statements for VOC and NOx Sources

214-0200	Purpose and Applicability	028-1500
214-0210	Requirements	028-1510
214-0220	Submission of Emission Statement	028-1520

Excess Emissions and Emergency Provision

214-0300	Purpose and Applicability	028-1400
214-0310	Planned Startup and Shutdown	028-1410
214-0320	Scheduled Maintenance	028-1420
214-0330	Upsets and Breakdowns	028-1430
214-0340	Reporting Requirements	028-1440
214-0350	Enforcement Action Criteria	028-1450
214-0360	Emergency Provision	028-1460

**DIVISION 216
AIR CONTAMINANT DISCHARGE PERMITS**

216-0010	Purpose	028-1700
216-0020	Applicability	028-1720

NOTE: Revised title (changed from: "Permit Required"). The Department will move Section (2) from rule 216-0040 (former rule 028-1770(2)) to here because it is an Applicability requirement.

216-0030	Definitions	*****
	NOTE: New rule. Placeholder for future definitions.	
216-0040	Application Requirements	028-1770
	NOTE: Revised title (changed from: "Other Requirements"). The Department will move Section (2) of this rule to rule 216-0020, as noted above.	
216-0050	Public Notice	028-1710
	NOTE: Revised title (changed from: "Notice Policy").	
216-0060	General Air Contaminant Discharge Permits	028-1725
216-0070	Multiple-Source Permit	028-1730
216-0080	Synthetic Minor Sources	028-1740
216-0090	Fees and Permit Duration	028-1750
216-0100	Permit Program for Regional Air Pollution Authority	028-1790
	NOTE: The Department will revise the rule language to apply only to ACDP. Rule 218-0250 will contain duplicate language but apply only to Title V.	

**DIVISION 218
OREGON TITLE V OPERATING PERMITS**

218-0010	Policy and Purpose	028-2100
	NOTE: Section (4) from repealed rule 028-0100, which designates LRAPA to implement the Oregon Operating Permit program, will be merged with rule 218-0010.	
218-0020	Applicability	028-2110
218-0030	Definitions	*****
	NOTE: New rule. Placeholder for future definitions.	
218-0040	Permit Applications	028-2120
218-0050	Standard Permit Requirements	028-2130
218-0060	State-Enforceable Requirements	028-2140
218-0070	Federally-Enforceable Requirements	028-2150
218-0080	Compliance Requirements	028-2160
218-0090	General Permits	028-2170
218-0100	Temporary Sources	028-2180
218-0110	Permit Shield	028-2190
218-0120	Permit Issuance	028-2200
218-0130	Permit Renewal and Expiration	028-2210
218-0140	Operational Flexibility	028-2220
218-0150	Administrative Permit Amendments	028-2230
218-0160	Permit Modification	028-2240
218-0170	Minor Permit Modifications	028-2250
218-0180	Significant Permit Modifications	028-2260
218-0190	Construction/Operation Modifications	028-2270
218-0200	Reopenings	028-2280
218-0210	Public Participation	028-2290
218-0220	Contested Permits	028-2300
218-0230	Permit Review by the EPA and Affected States	028-2310
218-0240	Enforcement	028-2320
218-0250	Permit Program for Regional Air Pollution Authority	028-1790
	NOTE: The Department will revise language to apply only to Title V. Rule 216-0100 will contain duplicate language but apply only to ACDP.	

**DIVISION 220
OREGON TITLE V OPERATING PERMIT FEES**

220-0010	Purpose, Scope and Applicability	028-2560
220-0020	Definitions	*****
	NOTE: New rule. Placeholder for future definitions.	
220-0030	Annual Base Fee	028-2580
220-0040	Emission Fee	028-2590
220-0050	Specific Activity Fees	028-2600
220-0060	Pollutants Subject to Emission Fees	028-2610
220-0070	Exclusions	028-2620
220-0080	References	028-2630
220-0090	Election For Each Assessable Emission	028-2640
220-0100	Emission Reporting	028-2650
220-0110	Emission Reporting and Fee Procedures	028-2660
220-0120	Actual Emissions	028-2670
220-0130	Determining Emissions From Continuous Monitoring Systems	028-2680
220-0140	Determining Emissions Using Material Balance	028-2690
220-0150	Determining VOC Emissions Using Material Balance	028-2700
220-0160	Determining Sulfur Dioxide Emissions Using Material Balance	028-2710
220-0170	Verified Emission Factors Using Source Testing	028-2720
220-0180	Late and Underpayment of Fees	028-2730
220-0190	Failure to Pay Fees	028-2740

**DIVISION 222
STATIONARY SOURCE PLANT SITE EMISSION LIMITS**

222-0010	Policy	028-1000
222-0020	Applicability	028-1010
	NOTE: Revised title (changed from: "Requirement for Plant Site Emission Limit").	
222-0030	Definitions	*****
	NOTE: New rule. Placeholder for future definitions.	
222-0040	Criteria for Establishing Plant Site Emission Limits	028-1020
222-0050	Temporary PSD Increment Allocation	028-1040
222-0060	Plant Site Emission Limits for Sources of Hazardous Air Pollutants	028-1050
222-0070	Plant Site Emission Limits for Insignificant Activities	028-1060

**DIVISION 224
MAJOR NEW SOURCE REVIEW**

224-0010	Applicability	028-1900
224-0020	Definitions	*****
	NOTE: New rule. Placeholder for future definitions.	
224-0030	Procedural Requirements	028-1910
224-0040	Review of New Sources and Modifications for Compliance with Regulations	028-1920
224-0050	Requirements for Sources in Nonattainment Areas	028-1930
224-0060	Requirements for Sources in Maintenance Areas	028-1935
224-0070	Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas	028-1940
224-0080	Exemptions	028-1950
224-0090	Requirements for Net Air Quality Benefit	028-1970
224-0100	Fugitive and Secondary Emissions	028-1990
224-0110	Visibility Impact	028-2000

DIVISION 226
General Emission Standards

226-0010 Definitions 021-0005

NOTE: The Department will copy these definitions to rules 228-0020 and 208-0010 because they apply to those Divisions. The Department will delete the definitions for "Fuel Burning Equipment" and "Opacity" because they do not apply to this Division. The Department will also delete the definitions for "Coastal Areas", and "Municipal Waste Combustor" because they were never used in former Division 21. The Department will move the definition for "Typically Achievable Control Technology" from the General Definitions in Division 200-0020 to here because it only applies to Division 226.

Highest and Best Practicable Treatment and Control

226-0100 Policy and Application 028-0600

NOTE: Revised title (changed from: "Highest and Best Practicable Treatment and Control Required")

226-0110 Pollution Prevention 028-0610

226-0120 Operating and Maintenance Requirements 028-0620

226-0130 Typically Achievable Control Technology 028-0630

226-0140 Additional Control Requirements for Stationary Sources of Air Contaminants 028-0640

Grain Loading Standards

226-0200 Applicability 021-0012

NOTE: The Department will copy this rule to rule 228-0010, and 208-0100 because it also applies to those Divisions

226-0210 Particulate Emission Limitations for Sources Other Than Fuel Burning and Refuse Burning Equipment 021-0030

Particulate Emissions From Process Equipment

226-0300 Applicability 021-0035

226-0310 Emission Standard 021-0040

226-0320 Determination of Process Weight 021-0045

Alternative Emission Controls

226-0400 Alternative Emission Controls (Bubble) 028-1030

DIVISION 228

REQUIREMENTS FOR FUEL BURNING EQUIPMENT AND FUEL SULFUR CONTENT

228-0010 Applicability 021-0012

NOTE: New rule. The Department will copy rule 226-0200 (former 021-0012) here because it also applies to this Division.

228-0020 Definitions 022-0005,
022-0050,
021-0005

NOTE: The Department will combine (add) the definition of "new source" from former rule 022-0050 here. The Department will also copy the definitions from rule 226-0010 (former rule 021-0005) here as they apply to this Division.

Sulfur Content of Fuels

228-0100 Residual Fuel Oils 022-0010

228-0110 Distillate Fuel Oils 022-0015

228-0120 Coal 022-0020

228-0130 Exemptions 022-0025

General Emission Standards for Fuel Burning Equipment

228-0200 Sulfur Dioxide Standards 022-0055

NOTE: Revised title (changed from: "Fuel Burning Equipment").

228-0210 Grain Loading Standards 021-0020

NOTE: Revised title (changed from: "Fuel Burning Equipment Limitations").

Federal Acid Rain Program

228-0300 Federal Regulations Adopted by Reference 022-0075

**DIVISION 230
INCINERATOR REGULATIONS**

230-0010 Purpose 025-0850
230-0020 Applicability 025-0852
230-0030 Definitions 025-0855,
025-0950,
025-0750

NOTE: The Department will move the municipal combustor definitions from rule 230-0300 here because these definitions will apply to all of Division 230. The Department will also move the hospital/medical/infectious waste definitions from former rule 025-0750 here.

Solid and Infectious Waste Incinerators

230-0100 Best Available Control Technology 025-0860
230-0110 Emissions Limitations 025-0865
230-0120 Design and Operation 025-0870
230-0130 Continuous Emissions Monitoring 025-0875
230-0140 Reporting and Testing 025-0880
230-0150 Compliance 025-0885

Crematory Incinerators

230-0200 Emission Limitations 025-0890
230-0210 Design and Operation 025-0895
230-0220 Monitoring and Reporting 025-0900
230-0230 Compliance 025-0905

Municipal Waste Combustors

230-0300 Applicability 025-0950

NOTE: Revised title (changed from: "Applicability and Definitions"). The Department will move the municipal combustor definitions from rule 230-0300 to Definitions rule 230-0030.

230-0310 Emissions Limitations 025-0960
230-0320 Operating Practices 025-0970
230-0330 Operator Training and Certification 025-0980
230-0340 Monitoring and Testing 025-0990
230-0350 Recordkeeping and Reporting 025-1000
230-0360 Compliance Schedule 025-1010

Hospital/Medical/Infectious Waste Incinerators

230-0400 Applicability and Exemptions 025-0750
230-0410 Emission Limitations and Citations 025-0750

NOTE: The Department will split former rule 025-0750 into two rules and change the titles as provided above.

**DIVISION 232
EMISSION STANDARDS FOR VOC POINT SOURCES**

232-0010 Introduction 022-0100
232-0020 Applicability 022-0104

NOTE: Revised title (changed from: "General Requirements for New and Existing Sources"). The Department will retain former rule 022-0104 Sections (1) through (4) only here.

232-0030 Definitions 022-0102

NOTE: The Department will delete the definition for Volatile Organic Compound from this rule. The definition found in Division 200 will apply to this Division.

232-0040 General Noncategorical Requirements 022-0104

NOTE: New Rule. The Department will place the remaining former rule 022-0104 Sections (5) through (7) here because they apply only to non-categorical VOC requirements.

232-0050	Exemptions	022-0106
232-0060	Compliance Determination	022-0107
232-0070	Gasoline Dispensing Facilities	022-0110
232-0080	Bulk Gasoline Plants	022-0120
232-0085	Gasoline Delivery Vessel(s)	022-0125
232-0090	Bulk Gasoline Terminals	022-0130
232-0100	Testing Vapor Transfer and Collection Systems	022-0137
232-0110	Fuel Product Loading at Marine Terminals	*****
NOTE: Placeholder for future rule.		
232-0120	Cutbacks and Emulsified Asphalt	022-0140
232-0130	Petroleum Refineries	022-0150
232-0140	Petroleum Refinery Leaks	022-0153
232-0150	Liquid Storage	022-0160
232-0160	Surface Coating in Manufacturing	022-0170
232-0170	Aerospace Component Coating Operations	022-0175
232-0180	Degreasers	022-0180
232-0190	Open Top Vapor Degreasers	022-0183
232-0200	Conveyorized Degreasers	022-0186
232-0210	Asphaltic and Coal Tar Pitch Used for Roofing Coating	022-0190
232-0220	Flat Wood Coating	022-0200
232-0230	Rotogravure and Flexographic Printing	022-0210
232-0240	Perchloroethylene Dry Cleaning	022-0220

**DIVISION 234
EMISSION STANDARDS FOR WOOD PRODUCTS INDUSTRIES**

234-0010	Definitions	025-0005, 025-0150, 025-0220, 025-0305, 025-0350
NOTE: The Department will merge the definitions from former rules 025-0005, 025-0150, 025-0220, 025-0305, and 025-0350 here to create a definition rule for the entire Wood Products Industry Division.		
Wigwam Waste Burners		
234-0100	Statement of Policy and Applicability	025-0010
NOTE: Revised title (changed from: "Statement of Policy").		
234-0110	Authorization to Operate a Wigwam Burner	025-0015
234-0120	Emission and Operation Standards for Wigwam Waste Burners	025-0020
234-0130	Monitoring and Reporting	025-0025
234-0140	Existing Administrative Agency Orders	025-0027
Kraft Pulp Mills		
234-0200	Statement of Policy and Applicability	025-0155
NOTE: Revised title (changed from: "Statement of Policy").		
234-0210	Emission Limitations	025-0165
234-0220	More Restrictive Emission Limits	025-0170
234-0230	Plans and Specifications	025-0175
234-0240	Monitoring	025-0180
234-0250	Reporting	025-0185
234-0260	Upset Conditions	025-0190
234-0270	Chronic Upset Conditions	025-0205
Neutral Sulfite Semi-Chemical (NSSC) Pulp Mills		
234-0300	Applicability	*****

NOTE: Placeholder for future Applicability rule.

234-0310	Emission Limitations	025-0224
234-0320	More Restrictive Emission Limits	025-0226
234-0330	Plans and Specifications	025-0228
234-0340	Monitoring	025-0230
234-0350	Reporting	025-0232
234-0360	Upset Conditions	025-0234

Sulfite Pulp Mills

234-0400	Statement of Policy and Applicability	025-0355
----------	---------------------------------------	----------

NOTE: Revised title (changed from: "Statement of Purpose").

234-0410	Minimum Emission Standards	025-0360
234-0420	Monitoring and Reporting	025-0370
234-0430	Exceptions	025-0380

Board Products Industries (Veneer, Plywood, Particleboard, Hardboard)

234-0500	Applicability and General Provisions	025-0310
----------	--------------------------------------	----------

NOTE: Revised title (changed from: "General Provisions").

234-0510	Veneer and Plywood Manufacturing Operations	025-0315
234-0520	Particleboard Manufacturing Operations	025-0320
234-0530	Hardboard Manufacturing Operations	025-0325

DIVISION 236

EMISSION STANDARDS FOR SPECIFIC INDUSTRIES

236-0010	Definitions	025-0260,
	NOTE: The Department will merge the definitions from former rules 025-0260, 025-0410, and	025-0410,
	025-0105 here to create a definition rule for the entire Specific Industries Division.	025-0105

Primary Aluminum Standards

236-0100	Statement of Purpose	025-0255
----------	----------------------	----------

236-0110	Applicability	*****
----------	---------------	-------

NOTE: Placeholder for future Applicability rule.

236-0120	Emission Standards	025-0265
236-0130	Special Problem Areas	025-0270
236-0140	Monitoring	025-0280
236-0150	Reporting	025-0285

Laterite Ore Production of Ferronickel

236-0200	Statement of Purpose	025-0405
----------	----------------------	----------

236-0210	Applicability	*****
----------	---------------	-------

NOTE: Placeholder for future Applicability rule.

236-0220	Emission Standards	025-0415
236-0230	Monitoring and Reporting	025-0430

Reduction of Animal Matter

236-0300	Application	025-0070
----------	-------------	----------

NOTE: Revised title (changed from: "Application").

236-0310	Control Facilities Required	025-0055
236-0320	Monitoring of Reduction Facilities	025-0060
236-0330	Housekeeping of Plant and Plant Area	025-0065

Hot Mix Asphalt Plants

236-0400	Applicability	*****
----------	---------------	-------

NOTE: Placeholder for future Applicability rule.

236-0410	Control Facilities Required	025-0110
----------	-----------------------------	----------

236-0420	Other Established Air Quality Limitations	025-0115
236-0430	Portable Hot Mix Asphalt Plants	025-0120
236-0440	Ancillary Sources of Emission - Housekeeping of Plant Facilities	025-0125

Solid Waste Landfills

236-0500	Emission Standards for Municipal Solid Waste Landfills	025-0745
----------	--	----------

NOTE: Revised title (changed from: "Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification Before May 31, 1991").

DIVISION 238

NEW SOURCE PERFORMANCE STANDARDS

238-0010	Statement of Purpose	025-0505
238-0020	Statement of Policy	025-0515
238-0030	Applicability	*****

NOTE: New rule. Placeholder for future Applicability rule.

238-0040	Definitions	025-0510
238-0050	General Provisions	025-0530
238-0060	Federal Performance Standards Adopted by Reference	025-0535

NOTE: Revised title (changed from: "Federal Regulations Adopted by Reference"). The Department will add a listing of adopted federal Subparts with titles (see repealed rules, below).

238-0070	Compliance	025-0800
238-0080	More Restrictive Regulations	025-0805
238-0090	Delegation	025-0520
238-0100	Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction or Modification on or After May 30, 1991	025-0740

DIVISION 240

RULES FOR AREAS WITH UNIQUE AIR QUALITY NEEDS

240-0010	Purpose	030-0005
----------	---------	----------

NOTE: Revised title (changed from "Purpose and Application"). Language regarding the applicability of Division 240 rules in addition to all air quality rules was deleted from this rule because similar language exists in Division 200.

240-0020	Emission Limitation Basis	030-0007
----------	---------------------------	----------

NOTE: Revised title (changed from: "Emission Limitations").

240-0030	Definitions	030-0010
----------	-------------	----------

The Medford-Ashland Air Quality Maintenance Area and the Grants Pass Urban Growth Area

240-0100	Applicability	030-0012
----------	---------------	----------

NOTE: Revised title (changed from: "Application"). The Department will clarify this rule to specify the Sections that apply to Grants Pass and Medford versus the Sections that only apply to Medford.

240-0110	Wood Waste Boilers	030-0015
240-0120	Veneer Dryer Emission Limitations	030-0021
240-0130	Air Conveying Systems (Medford-Ashland AQMA Only)	030-0025
240-0140	Wood Particle Dryers at Particleboard Plants	030-0030
240-0150	Hardboard Manufacturing Plants	030-0031
240-0160	Wigwam Waste Burners	030-0035
240-0170	Charcoal Producing Plants	030-0040
240-0180	Control of Fugitive Emissions (Medford-Ashland AQMA Only)	030-0043
240-0190	Requirement for Operation and Maintenance Plans (Medford-Ashland AQMA Only)	030-0044
240-0200	Emission Limits Compliance Schedules	030-0046
240-0210	Continuous Monitoring	030-0050
240-0220	Source Testing	030-0055
240-0230	New Sources	030-0065

240-0240	Rebuilt Boilers	030-0067
240-0250	Open Burning	030-0070
240-0260	Emission Offsets	030-0111
240-0270	Dual-Fueling Feasibility Study for Wood Waste Boilers	030-0115

La Grande Urban Growth Area

240-0300	Applicability	030-0200
NOTE: Revised title (changed from: "Application").		
240-0310	Compliance Schedule for Existing Sources	030-0205
240-0320	Wood Waste Boilers	030-0210
240-0330	Wood Particle Dryers at Particleboard Plants	030-0215
240-0340	Hardboard Manufacturing Plants	030-0220
240-0350	Air Conveying Systems	030-0225
240-0360	Fugitive Emissions	030-0230

The Lakeview Growth Area

240-0400	Applicability	030-0300
NOTE: Revised title (changed from: "Application").		
240-0410	Control of Fugitive Emissions	030-0310
240-0420	Requirement for Operation and Maintenance Plans	030-0320
240-0430	Source Testing	030-0330
240-0440	Open Burning	030-0340

DIVISION 242

RULES APPLICABLE TO THE PORTLAND AREA

Employee Commute Options Program

242-0010	What is the Employee Commute Options Program?	030-0800
242-0020	Who is Subject to ECO?	030-0810
242-0030	What Does ECO Require?	030-0820
242-0040	How Does the Department Enforce ECO?	030-0830
242-0050	Definitions of Terms Used in These Rules	030-0840
242-0060	Should All Employees at a Work Site be Counted?	030-0850
242-0070	What are the Major Requirements of ECO?	030-0860
242-0080	What are the Registration Requirements?	030-0870
242-0090	What are the Requirements for an Employee Survey?	030-0880
242-0100	Special Requirements for Employers Intending to Comply Without an Approved Plan	030-0890
242-0110	What if an Employer Does Not Meet the Target Auto Trip Rate?	030-0900
242-0120	How Will Employers Demonstrate Progress Toward the Target Auto Trip Rate?	030-0910
242-0130	What is the Schedule Employers Must Follow to Implement ECO?	030-0920
242-0140	How Should Employers Account for Changes in Work Force Size?	030-0930
242-0150	How Can an Employer Reduce Auto Commute Trips to a Work Site?	030-0940
242-0160	What Should be Included in an Auto Trip Reduction Plan?	030-0950
242-0170	When Will the Department Act on a Submitted Auto Trip Reduction Plan?	030-0960
242-0180	What is a Good Faith Effort?	030-0970
242-0190	How Does the ECO Program Affect New Employers, Expanding Employers and Employers Relocating Within the Portland AQMA?	030-0980
242-0200	Can a New or Relocating Employer Comply with ECO Through Restricted Parking Ratios?	030-0990
242-0210	Can an Existing Employer Comply with ECO Through Restricted Parking Ratios?	030-1000
242-0220	What if an Employer has More Than One Work Site Within the Portland AQMA?	030-1010
242-0230	Can Employers Submit a Joint Plan?	030-1020
242-0240	Are There Alternatives to Trip Reduction?	030-1030
242-0250	What Alternatives Qualify as Equivalent Emission Reductions?	030-1040

242-0260	Can Employers Get Credit for Existing Trip Reduction Programs?	030-1050
242-0270	Are Exemptions Allowed if an Employer is Unable to Reduce Trips or Take Advantage of Alternate Compliance Options?	030-1060
242-0280	Participation in the Industrial Emission Management Program	030-1070
242-0290	What Kind of Records Must Be Kept and For How Long?	030-1080
Voluntary Maximum Parking Ratio Program		
242-0300	What is the Voluntary Parking Ratio Program?	030-1100
242-0310	Who Can Participate in the Voluntary Parking Ratio Program?	030-1110
242-0320	Definitions of Terms and Land Uses	030-1160
242-0330	How Does a Property Owner Comply with the Voluntary Parking Ratio Programs?	030-1120
242-0340	What are the Incentives for Complying with the Voluntary Parking Ratio Program?	030-1130
242-0350	Why Do I need a Parking Ratio Permit?	030-1140
242-0360	What is Required to Obtain a Parking Ratio Permit?	030-1150
242-0370	How is the Parking Ratio Program Enforced?	030-1170
242-0380	When Will the Determination Act on a Submitted Permit Application?	030-1180
242-0390	What are the Applicable Parking Ratios?	030-1190
Industrial Emission Management Program		
242-0400	Applicability	030-0700
	NOTE: Revised title (changed from: " Industrial Emission Management Program Application").	
242-0410	Definition of Terms	030-0710
242-0420	Unused PSEL Donation Program	030-0720
242-0430	Industrial Growth Allowances	030-0730
242-0440	Industrial Growth Allowance Allocation	030-0740
Gasoline Vapors From Gasoline Transfer and Dispensing Operations		
242-0500	Purpose and Applicability	022-0400
	NOTE: Revised title (changed from: "Purpose").	
242-0510	Definitions	022-0401
242-0520	General Provisions	022-0402
Motor Vehicle Refinishing		
242-0600	Applicability	022-0700
242-0610	Definitions	022-0710
242-0620	Requirements for Motor Vehicle Refinishing in Portland AQMA	022-0740
242-0630	Inspecting and Testing Requirements	022-0760
Spray Paint		
242-0700	Applicability	022-0900
242-0710	Definitions	022-0910
242-0720	Spray Paint Standards and Exemptions	022-0920
242-0730	Requirements for Manufacture, Sale and Use of Spray Paint	022-0930
242-0740	Recordkeeping and Reporting Requirements	022-0940
242-0750	Inspection and Testing Requirements	022-0950
Area Source Common Provisions		
242-0760	Applicability	022-1100
242-0770	Compliance Extensions	022-1110
242-0780	Exemption from Disclosure to the Public	022-1120
242-0790	Future Review	022-1130

DIVISION 244

OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM

General Provisions for Stationary Sources

244-0010	Policy and Purpose	032-0100
----------	--------------------	----------

244-0020	Delegation of Authority	032-0110
244-0030	Definitions	032-0120
244-0040	List of Hazardous Air Pollutants	032-0130
244-0050	Amending the List of Hazardous Air Pollutants	032-0140

Compliance Extensions for Early Reductions

244-0100	Applicability	032-0300
244-0110	Permit Application Procedures for Early Reductions	032-0310
244-0120	General Provisions for Compliance Extensions	032-0320
244-0130	Determination of Early Reductions Unit	032-0330
244-0140	Demonstration of Early Reduction	032-0340
244-0150	Review of Base Year Emissions	032-0350
244-0160	Early Reduction Demonstration Evaluation	032-0360
244-0170	Approval of Applications	032-0370
244-0180	Rules for Special Situations	032-0380

Emission Standards

244-0200	Emissions Limitation for New and Reconstructed Major Sources	032-0500
244-0210	Emission Limitations for Existing Sources	032-0505
244-0220	Federal Regulations Adopted by Reference	032-0510, 032-5520

NOTE: The Department proposes to merge the pre-1990 NESHAPs adoption by reference here (former rule 032-5520) to have all (pre-and-post 1990) NESHAPs in one rule. The Department will add language to cross-reference to the new Asbestos Division 248.

244-0230	Accidental Release Prevention	032-5400
----------	-------------------------------	----------

DIVISION 246 (UNTITLED)

NOTE: The Department will create a new Division 246 to be a placeholder for future Hazardous Air Pollutant rules.

**DIVISION 248
ASBESTOS REQUIREMENTS**

248-0010	Definitions	033-0020, 032-5590
----------	-------------	-----------------------

NOTE: The Department will add the definitions from former rule 032-5590 here because they apply to all of division 248

Asbestos Licensing and Certification Requirements

248-0100	Authority, Purpose, and Scope	033-0010
248-0110	General Provisions	033-0030
248-0120	Contractor Licensing	033-0040
248-0130	Certification	033-0050
248-0140	Training Provider Accreditation	033-0060
248-0150	General Training Standards	033-0070
248-0160	Prior Training	033-0080
248-0170	Reciprocity	033-0090
248-0180	Fees	033-0100

Asbestos Emission Standards and Procedural Requirements

248-0200	Applicability	*****
----------	---------------	-------

NOTE: New rule. Placeholder for future applicability language

248-0210	Emission Standards and Procedural Requirements for Asbestos	032-5600
248-0220	Reporting Requirements for Source Using Air Cleaning Devices	032-5604
248-0230	Asbestos to Nonasbestos Conversion Operations	032-5605
248-0240	Asbestos Inspection Requirements for Oregon Title V Operating Permit Program Sources	032-5610

248-0250	Asbestos Abatement Projects	032-5620
248-0260	Asbestos Abatement Notifications Requirements	032-5630
248-0270	Asbestos Abatement Work Practices and Procedures	032-5640
248-0280	Asbestos Disposal Requirements	032-5650

**DIVISION 250
GENERAL CONFORMITY**

250-0010	Purpose	020-1500
250-0020	Applicability	020-1520
250-0030	Definitions	020-1510
250-0040	Conformity Analysis	020-1530
250-0050	Reporting Requirements	020-1540
250-0060	Public Participation	020-1550
250-0070	Frequency of Conformity Determinations	020-1560
250-0080	Criteria for Determining Conformity of General Federal Actions	020-1570
250-0090	Procedures for Conformity Determinations of General Federal Actions	020-1580
250-0100	Mitigation of Air Quality Impacts	020-1590
250-0110	Savings Provision	020-1600

**DIVISION 252
TRANSPORTATION CONFORMITY**

252-0010	Purpose	020-0710
252-0020	Applicability	020-0730
252-0030	Definitions	020-0720
252-0040	Priority	020-0740
252-0050	Frequency of Conformity Determinations	020-0750
252-0060	Consultation	020-0760
252-0070	Content of Transportation Plans	020-0770
252-0080	Relationship of Transportation Plan and TIP Conformity with the NEPA Process	020-0780
252-0090	Fiscal Constraints for Transportation Plans and TIPS	020-0790
252-0100	Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General	020-0800
252-0110	Criteria and Procedures: Latest Planning Assumptions	020-0810
252-0120	Criteria and Procedures: Latest Emissions Model	020-0820
252-0130	Criteria and Procedures: Consultation	020-0830
252-0140	Criteria and Procedures: Timely Implementation of TCMs	020-0840
252-0150	Criteria and Procedures: Currently Conforming Transportation Plan and TIP	020-0850
252-0160	Criteria and Procedures: Projects from a Plan and TIP	020-0860
252-0170	Criteria and Procedures: Localized CO and PM10 Violations (Hot-spots)	020-0870
252-0180	Criteria and Procedures: Compliance with PM10 Control Measures	020-0880
252-0190	Criteria and Procedures: Motor Vehicle Emissions Budget	020-0890
252-0200	Criteria and Procedures: Emission Reductions in Areas Without Motor Vehicle Emissions Budgets	020-0900
252-0210	Consequences of Control Strategy Implementation Plan Failure	020-0910
252-0220	Requirements for Adoption or Approval of Projects by Recipients of Funds Designated Under Title 23 U.S.C. or the Federal Transit Act	020-1000
252-0230	Procedures for Determining Regional Transportation-Related Emissions	020-1010
252-0240	Procedures for Determining Localized CO and PM10 Concentrations (Hot-spot Analysis)	020-1020
252-0250	Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan (or Implementation Plan Submission)	020-1030
252-0260	Enforceability of Design Concept and Scope and Project-level Mitigation and Control Measures	020-1040

252-0270	Exempt Projects	020-1050
252-0280	Projects Exempt from Regional Emissions Analyses	020-1060
252-0290	Traffic Signal Synchronization Projects	020-1070

**DIVISION 254
RULES FOR INDIRECT SOURCES**

254-0010	Policy	020-0100
254-0020	Jurisdiction and Delegation	020-0105
254-0030	Definitions	020-0110
254-0040	Indirect Sources Required to Have Indirect Source Construction Permits	020-0115
254-0050	Indirect Source Permit Application Process	020-0120
254-0060	Indirect Source Construction Permit Application Requirements for Parking Facilities	020-0125
254-0070	Issuance or Denial of Indirect Source Construction Permits	020-0130
254-0080	Permit Duration	020-0135

**DIVISION 256
MOTOR VEHICLES**

256-0010	Definitions	024-0305, 024-0005
----------	-------------	-----------------------

NOTE: The Department will add the definitions from former rule 024-0305 here because they apply to all of Division 256

Visible Emissions

256-0100	Visible Emissions - General Requirements, Exclusions	024-0010
256-0110	Visible Emissions - Special Requirements Excluded Motor Vehicles	024-0015
256-0120	Uncombined Water - Water Vapor	024-0020
256-0130	Motor Vehicle Fleet Operation	024-0025
256-0140	Dealer Compliance	024-0030
256-0150	Method of Measurement	024-0035
256-0160	Adoption of Alternative Methods of Measuring Visible Emissions	024-0040

Certification of Pollution Control Systems

256-0200	County Designations	024-0100
256-0210	Criteria for Certification of Motor Vehicle Pollution Control Systems	024-0200

Emission Control System Inspection

256-0300	Scope	024-0300
256-0310	Government-Owned Vehicle, Permanent Fleet Vehicle and United States Government Vehicle Testing Requirements	024-0306
256-0320	Motor Vehicle Inspection Program Fee Schedule	024-0307
256-0330	Department of Defense Personnel Participation in the Privately Owned Vehicle Import Control Program	024-0308
256-0340	Light Duty Motor Vehicle and Heavy Diesel Gasoline Motor Vehicle Emission Control Test Method for Basic Program	024-0309
256-0350	Light Duty Motor Vehicle Emission Control Test Method for Enhanced Program	024-0312
256-0360	Motorcycle Noise Emission Control Test Method	024-0314
256-0370	Renewal of Registration for Light Duty Method Vehicles and Heavy Duty Gasoline Motor Vehicles Temporarily Operating Outside Oregon	024-0318
256-0380	Light Duty Motor Vehicle Emission Control Test Criteria for Basic Program	024-0320
256-0390	Heavy Duty Gasoline Motor Vehicle Emission Control Test Criteria	024-0325
256-0400	Light Duty Motor Vehicle Emission Control Standards for Basic Program	024-0330
256-0410	Light Duty Motor Vehicle Emission Control Standards for Enhanced Program	024-0332

256-0420	Heavy Duty Gasoline Motor Vehicle Emission Control Standards	024-0335
256-0430	Motor Vehicle Propulsion Exhaust Noise Standards	024-0337
256-0440	Criteria for Qualifications of Persons Eligible to Inspect Motor Vehicles and Motor Vehicle Pollution Control Systems and Execute Certificates	024-0340
256-0450	Gas Analytical System Licensing Criteria for Basic Program	024-0355
256-0460	Gas Analytical System Licensing Criteria for Enhanced Program	024-0357
256-0470	Agreement With Independent Contractor; Qualifications of Contractor; Agreement Provisions	024-0360

**DIVISION 258
MOTOR VEHICLE FUEL SPECIFICATIONS**

258-0010	Definitions	022-0450
	Oxygenated Gasoline	
258-0100	Policy	022-0440
258-0110	Purpose and General Requirements	022-0460
258-0120	Sampling and Testing for Oxygen Content	022-0490
258-0130	Compliance Options	022-0500
258-0140	Per Gallon Oxygen Content Standard	022-0503
258-0150	Average Oxygen Content Standard	022-0507
258-0160	Minimum Oxygen Content	022-0510
258-0170	Oxygenated Gasoline Blending	022-0520
258-0180	Registration	022-0530
258-0190	CAR, Distributor and Retail Outlet Operating Permits	022-0540
258-0200	Owners of Gasoline at Terminals, Distributors and Retail Outlets Required to Have Indirect Source Operating Permits	020-0136
258-0210	Recordkeeping	022-0550
258-0220	Reporting	022-0560
258-0230	Prohibited Activities	022-0570
258-0240	Inspection and Sampling	022-0580
258-0250	Liability for Violation of a Prohibited Activity	022-0590
258-0260	Defenses for Prohibited Activities	022-0600
258-0270	Inability to Produce Conforming Gasoline Due to Extraordinary Circumstances	022-0610
258-0280	Quality Assurance Program	022-0620
258-0290	Attest Engagements Guidelines When Prohibited Activities Alleged	022-0630
258-0300	Dispenser Labeling	022-0640
258-0310	Contingency Provision for Carbon Monoxide Nonattainment Areas	022-0650
	Standard for Automotive Gasoline	
258-0400	Reid Vapor Pressure for Gasoline	022-0300

**DIVISION 260
REFRIDGERANT RECYCLING AND OZONE DEPLETING SUBSTANCE REQUIREMENTS
Refrigerant Recycling**

260-0010	Purpose and Applicability	022-0405
260-0020	Definitions	022-0410
260-0030	Requirement for Recycling Automobile Air Conditioning Coolant	022-0415
	Ozone Depleting Substance Requirements	
260-0040	Federal Regulations Adopted by Reference	022-0420

**DIVISION 262
RESIDENTIAL WOODHEATING**

262-0010	Purpose	034-0001
262-0020	Definitions	034-0005

Woodstove Sales

262-0030	Requirements for Sale of Woodstoves	034-0010
262-0040	Exemptions	034-0015
262-0050	Civil Penalties	034-0020

Woodstove Certification Program

262-0100	Applicability	034-0045
262-0110	Emissions Performance Standards and Certification	034-0050
262-0120	General Certification Procedures	034-0060
262-0130	Labeling Requirements	034-0070

Woodburning Curtailment

262-0200	Applicability	034-0150
262-0210	Determination of Air Stagnation Conditions	034-0155
262-0220	Prohibition on Woodburning During Periods of Air Stagnation	034-0160
262-0230	Public Information Program	034-0165
262-0240	Enforcement	034-0170
262-0250	Suspension of Department Program	034-0175

Woodstove Removal Contingency Program

262-0300	Applicability	034-0200
262-0310	Removal and Destruction of Uncertified Stove Upon Sale of Home	034-0205
262-0320	Home Seller's Responsibility to Verify Stove Destruction	034-0210
262-0330	Home Seller's Responsibility to Disclose	034-0215

DIVISION 264

RULES FOR OPEN BURNING

264-0010	How to Use These Open Burning Rules	023-0022
264-0020	Policy	023-0025
264-0030	Definitions	023-0030
264-0040	Exemptions, Statewide	023-0035
264-0050	General Requirements Statewide	023-0040
264-0060	General Prohibitions Statewide	023-0042
264-0070	Open Burning Schedule	023-0043
264-0080	County Listing of Specific Open Burning Rules Open Burning Prohibitions	023-0045

Open Burning Prohibitions

264-0100	Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties	023-0055
264-0110	Benton, Linn, Marion, Polk, and Yamhill Counties	023-0060
264-0120	Clackamas County	023-0065
264-0130	Multnomah County	023-0070
264-0140	Washington County	023-0075
264-0150	Columbia County	023-0080
264-0160	Lane County	023-0085
264-0170	Coos, Douglas, Jackson & Josephine Counties	023-0090
264-0180	Letter Permits	023-0100
264-0190	Forced Air Pit Incinerators	023-0105
264-0200	Open Burning Control Areas	023-0115

DIVISION 266

FIELD BURNING RULES (WILLAMETTE VALLEY)

266-0010	Introduction	026-0001
266-0020	Policy	026-0003
266-0030	Definitions	026-0005
266-0040	General Requirements	026-0010
266-0050	Registration, Permits, Fees, Records	026-0012
266-0060	Acreage Limitations, Allocations	026-0013
266-0070	Daily Burning Authorization Criteria	026-0015
266-0080	Burning by Public Agencies (Training Fires)	026-0031
266-0090	Preparatory Burning	026-0033
266-0100	Experimental Burning	026-0035
266-0110	Emergency Burning Cessation	026-0040
266-0120	Propane Flaming	026-0045
266-0130	Stack Burning	026-0055

DIVISION 268

EMISSION REDUCTION CREDITS

268-0010	Applicability	*****
	NOTE: New rule. Placeholder for future applicability rule.	
268-0020	Definitions	*****
	NOTE: New rule. Placeholder for future definitions rule.	
268-0030	Emission Reduction Credit Banking	028-1980
268-0040	Baseline for Determining Credit for Offsets	028-1960

RULES TO BE REPEALED

Major Source Interim Emission Fees

NOTE: The Department proposes to repeal Interim Fee Rules 028-2400 through 028-2550, and Supplemental Interim Emission Fee Assessment rule 028-2570 because they are no longer applicable.

Purpose, Scope and Applicability	028-2400
Policy	028-2410
Pollutants Subject to Interim Emission Fees	028-2420
Exclusions	028-2430
References	028-2440
Election for Each Assessable Emission for 1991 and 1992	028-2450
Emission Reporting	028-2460
Emission Reporting and Interim Fee Procedures	028-2470
Calculated Emissions for 1991	028-2480
Actual Emissions for 1992	028-2490
Determining Emissions from Continuous Monitoring Systems for 1992	028-2500
Determining Emissions Using Material Balance for 1992	028-2510
Determining Emissions Using Material Balance for 1992	028-2520
Determining Sulfur Dioxide Emissions Using Material Balance for 1992	028-2530
Verified Emission Factors Using Source Testing	028-2540
Late and Underpayment Interim Emission Fees	028-2550
Supplemental Interim Emission Fee Assessment	028-2570

Opacity, Grain Loading and Process Equipment

Application	021-0007
-------------	----------

NOTE: The Department proposes to repeal rule 021-0007, which addresses the relation of general standards to specific standards, because it was not approved by U.S. EPA. This issue will be addressed in a future rulemaking.

New Source Performance Standards

NOTE: The Department proposes to repeal rules 025-0550 through 025-0746 (except for 025-0740) because they are redundant to reference New Source Performance Standards (federal Subparts). The Department will add language in rule 238-0600 to list and adopt these Subparts by reference.

Standards of Performance for Fossil Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971	025-0550
Standards of Performance for Industrial Commercial-Institutional Steam Generating Units	025-0553
Standards of Performance for Small Industrial Commercial-Institutional Steam Generating Units	025-0554
Standards of Performance for Incinerators	025-0555
Standards of Performance for Municipal Waste Combustors Greater than 225 Megagrams Per Day that Commenced Construction After December 20, 1989 and On or Before September 20, 1994	025-0556
Standards of Performance for Municipal Waste Combustors at Municipal Waste Combustor Plants Greater than 35 Megagrams Per Day that Commenced Construction After September 20, 1994	025-0557
Standards of Performance for Portland Cement Plants	025-0560
Standards of Performance for Nitric Acid Plants	025-0565
Standards of Performance for Sulfuric Acid Plants	025-0570
Standards of Performance for Hot Mix Asphalt Facilities	025-0575
Standards of Performance for Petroleum Refineries	025-0580
Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978	025-0585
Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984	025-0586
Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984	025-0587
Standards of Performance for Secondary Lead Smelters	025-0590
Standards of Performance for Secondary Brass and Bronze Production Plants	025-0595
Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973	025-0600
Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983	025-0602
Standards of Performance for Sewage Treatment Plants	025-0605
Standards of Performance for Primary Copper Smelters	025-0606
Standards of Performance for Primary Zinc Smelters	025-0607
Standards of Performance for Primary Lead Smelters	025-0608
Standards of Performance for Primary Aluminum Reduction Plants	025-0609
Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978	025-0610
Standards of Performance for the Phosphate Fertilizer Industry; Superphosphoric Acid Plants	025-0611
Standards of Performance for the Phosphate Fertilizer Industry; Diammonium Phosphate Plants	025-0612
Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants	025-0613
Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	025-0614
Standards of Performance for Coal Preparation Plants	025-0615
Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants	025-0618
Standards of Performance for Ferroalloy Production Facilities	025-0620

Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983	025-0625
Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983	025-0626
Standards of Performance for Kraft Pulp Mills	025-0630
Standards of Performance for Glass Manufacturing Plants	025-0635
Standards of Performance for Grain Elevators	025-0640
Standards of Performance for Metal Furniture Surface Coating	025-0642
Standards of Performance for Gas Turbines	025-0645
Standards of Performance for Lime Manufacturing Plants	025-0647
Standards of Performance for Lead-Acid Battery Manufacturing Plants	025-0650
Standards of Performance for Metallic Mineral Processing Plants	025-0652
Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations	025-0653
Standards of Performance for Phosphate Rock Plants	025-0655
Standards of Performance for Ammonium Sulfate Manufacture	025-0656
Standards of Performance for Graphics Arts Industry Publication: Rotogravure Printing	025-0660
Standards of Performance for Tape and Label Surface Coating Operations	025-0662
Standards of Performance for Industrial Surface Coating: Large Appliances	025-0665
Standards of Performance for Metal Coil Surface Coating	025-0670
Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture	025-0675
Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry	025-0680
Standards of Performance for the Beverage Can Surface Coating Industry	025-0685
Standards of Performance for Bulk Gasoline Terminals	025-0690
Standards of Performance for the Rubber Tire Manufacturing Industry	025-0695
Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry	025-0697
Standards of Performance for Flexible Vinyl and Urethane Coating and Printing	025-0701
Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries	025-0702
Standards of Performance for Synthetic Fiber Production Facilities	025-0704
Standards of Performance for Petroleum Dry Cleaners	025-0706
Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes	025-0707
Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants	025-0708
Standards of Performance for SO ₂ from Onshore Natural Gas Processing Plants	025-0710
Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations	025-0713
Standards of Performance for Nonmetallic Mineral Processing Plants	025-0714
Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants	025-0715
Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems	025-0720
Standards of Performance for Magnetic Tape Coating Facilities	025-0723
Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines	025-0725
Standards of Performance for Calciners and Dryers in Mineral Industries	025-0730
Standards of Performance for Polymeric Coating of Supporting Substrates Facilities	025-0735
Standards of Performance for Hospital/Medical/Infectious Waste Incinerators that Commenced Construction after June 20, 1996, or for which Modification is Commenced after March 16, 1998	025-0746

Division 28 Organizational Rules

Purpose, Applicability and Organization 028-0100

NOTE: The Department proposes to repeal rule 028-0100 because it describes the general purpose, applicability and organization of former Division 28. This rule will not longer be applicable because Division 28 will be broken into several new Divisions. However, section (4) of rule 028-0100, which designates LRAPA to implement the Oregon Operating Permit program, will be merged with rule 218-0010.

Applicability 028-1600

NOTE: The Department proposes to repeal rule 028-1600 because it only refers to, and is redundant with existing ADCP rules.

ACDP

Procedures for Obtaining Permits 028-1760

NOTE: The Department proposes to repeal rule 028-1760 because it is redundant to new rule 216-0090 (former rule 028-1790).

HAP Permitting Requirements

NOTE: The Department proposes to repeal rules 032-0220 through 032-0270 because they are redundant to the HAP source permitting requirements in the Title V (new Division 218) permitting rules.

Permit Application 032-0220

Permit to Construct or Modify 032-0230

Permit to Operate 032-0240

General Permits 032-0250

Quantification of Emissions 032-0260

Source Emission Tests 032-0270

Pre-1990 NESHAPs

Applicability 032-5500

NOTE: The Department proposes to repeal this rule because it is redundant to the pre-1990 rule "Federal Regulations Adopted by Reference" (former rule 032-5520). Former rule 032-5520 will be merged with new rule 244-0220 to have all (pre-and-post 1990) NESHAPs in one rule.

Notification of Startup 032-5510

NOTE: The Department proposes to repeal rule 032-5510 because it repeats requirements in rules adopted under former rule 032-5520. Former rule 032-5520 will be merged into rule 244-0220.

Emission Standards for Radon Emissions from Underground Uranium Mines 032-5530

NOTE: The Department proposes to repeal rules 032-5530 through 032-0585 because they are redundant to reference National Emission Standards for Hazardous Air Pollutants (federal Subparts). The Department will add language in rule 244-0220 to list and adopt these Subparts by reference.

Emission Standards for Beryllium 032-5540

Emission Standard for Mercury 032-5550

Emission Standard for Vinyl Chloride 032-5560

Emission Standards for Benzene 032-5570

Emission Standards for Arsenic 032-5580

Emission Standards for Airborne Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission 032-5585

NOTE: Former rule descriptions are listed below. These descriptions are no longer accurate or applicable. The Department will include new accurate descriptions with the new rule numbers, as provided in the proposed renumbered rules above.

GENERAL AIR POLLUTION CONTROL REGULATIONS

Indirect Source Construction Permit Program

Conflicts of Interest

Conformity to State or Federal Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 USC or the Federal Transit Laws

Determining Conformity of General Federal Actions to State and Federal Implementation Plans

GENERAL EMISSION STANDARDS FOR PARTICULATE MATTER

**Opacity and Grain Loading Standards
Particulate Matter from Process Equipment
Fugitive Emissions**

GENERAL GASEOUS EMISSIONS

**Sulfur Content of Fuels
General Emission Standards for Sulfur Dioxide
General Emission Standards for Volatile Organic Compounds
Limitations and Requirements
Standards for Automotive Gasoline
Gasoline Vapors from Gasoline Transfer and Dispensing Operations
Control of Ozone Depleting Chemicals
Motor Vehicle Fuel Specifications for Oxygenated Gasoline
Motor Vehicle Refinishing
Spray Paint
Architectural Coatings
Area Source Common Provisions**

RULES FOR OPEN BURNING

Open Burning Prohibitions

MOTOR VEHICLES

**Visible Emissions
Pertaining to Motor Vehicle Inspection
Motor Vehicle Emission Control Inspection Test Criteria, Methods, and Standards**

SPECIFIC INDUSTRIAL STANDARDS

**Construction and Operation of Wigwam Waste Burners
Reduction of Animal Matter
Hot Mix Asphalt Plants
Kraft Pulp Mills
Neutral Sulfite Semi-Chemical (NSSC) Pulp Mills
Primary Aluminum Standards
Board Products Industries (Veneer, Plywood, Particleboard, Hardboard)
Regulations for Sulfite Pulp Mills
Laterite Ore Production of Ferronickel
Standards of Performance for New Stationary Sources
Performance Standards
Incinerator Regulations
Solid and Infectious Waste Incinerators
Crematory Incinerators
Municipal Waste Combustors at Municipal Combustor Plants Greater than 35 Megagrams Per Day that
Commenced Construction On or Before September 20, 1994**

FIELD BURNING RULES (Willamette Valley)

AIR POLLUTION EMERGENCIES

STATIONARY SOURCE AIR POLLUTION CONTROL AND PERMITTING PROCEDURES

General

Rules Applicable to All Stationary Sources

Registration

Compliance Schedules

Notice of Construction and Approval of Plans

Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits or Federal Operating Permits

Plant Site Emission Limits

Sampling, Testing and Measurement of Air Contaminant Emissions

Compliance Assurance Monitoring

Excess Emissions and Emergency Provision

Emission Statements for VOC and NOx Sources in Ozone Nonattainment Areas

Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits

New Source Review

Rules Applicable to Sources Required to Have Oregon Title V Operating Permits

Stationary Source Air Pollution Control and Permitting Procedures

Major Source Interim Emission Fees

Oregon Title V Operating Permit Fees

SPECIFIC AIR POLLUTION CONTROL RULES FOR AREAS WITH UNIQUE AIR QUALITY CONTROL NEEDS

The Medford-Ashland Air Quality Maintenance Area and the Grants Pass Urban Growth Area

Là Grande Urban Growth Area

The Lakeview Urban Growth Area

Clackamas, Columbia, Multnomah, and Washington Counties

Benton, Linn, Marion, Polk and Yamhill Counties

Specific Air Pollution Control Rules for the Portland AQMA and Portland Metro Area

Industrial Emission Management Program

Employee Commute Options

Voluntary Maximum Parking Ratio Program

AIR POLLUTION CONTROL STANDARDS FOR AIR PURITY AND QUALITY

Ambient Air Quality Standards

Prevention of Significant Deterioration

The Air Quality Control Regions and Nonattainment and Maintenance Areas of Oregon

HAZARDOUS AIR POLLUTANTS

Provisions for Stationary Sources

Permit Application Requirements

Compliance Extensions for Early Reductions

Emission Standards

National Emission Standards for Hazardous Air Pollutants for Source Categories

Emission Standards and Procedural Requirements for Hazardous Air Contaminants Regulated Prior to the 1990

Amendments to the Federal Clean Air Act

LICENSING AND CERTIFICATION ASBESTOS REQUIREMENTS

RESIDENTIAL WOODHEATING

Woodstove Certification Program

Woodburning Curtailment

Woodstove Removal Contingency Program for PM10 Nonattainment Areas

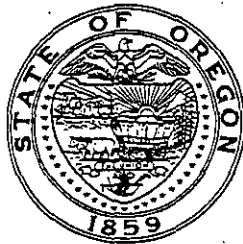
Attachment B1

OREGON BULLETIN

Supplements the 1999 Oregon Administrative Rules Compilation

VOLUME 38, No. 7
July 1, 1999

For May 15, 1999 - June 15, 1999



Published by
PHIL KEISLING
Secretary of State
Copyright 1999 Oregon Secretary of State

NOTICES OF PROPOSED RULEMAKING

Conference Rm. D
Salem, OR

Hearing Officer: Rodger Huffman
Stat. Auth.: ORS 561.190, 663.620 & 630.660
Stats. Implemented: ORS 561.190, 633.620 & 633.660
Proposed Amendments: 603-051-0830, 603-051-0835, 603-051-0840, 603-051-0845, 603-051-0850
Last Date for Comment: 8-4-99

Summary: The proposed amendments would update rules established in 1970. The rule change will assist growers who participate in the production of grape nursery stock to market their plants. The proposed amendment would create a category called "Elite" for stock with no detectable virus infections and a second category called "Registered" for stock free of designated serious virus diseases.

**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Lois Shafer
Address: 635 Capitol St. NE, Salem, OR 97310
Telephone: (503) 986-4757

.....
**Department of Consumer and Business Services, Oregon
Occupational Safety and Health Division
Chapter 437**

Stat. Auth.: ORS 654.025(2) & 656.726(3)
Stats. Implemented: ORS 654.001-654.295
Proposed Amendments: 437-002-0005, 437-002-0080, 437-002-0100
Last Date for Comment: 7-30-99

Summary: Federal OSHA published in the March 23, 1999, Federal Register changes to the standards for dipping and coating operations in general industry. OR-OSHA proposes to adopt the federal amendments by reference into its Divisions 2/A, 2/G, and 2/H.

Based on comments received during the national review of these rules, and other considerations, federal OSHA developed the final standard to accomplish several goals: To rewrite the former standards in plain language; to consolidate the former requirements in sequential sections (sections 1910.122 through 1910.126 in subdivision H of 1910 (general industry)); and to update the former standards to increase the compliance options available to employers. In addition to achieving these goals, OSHA concludes that the final rule will enhance employee protection by making it more understandable and useful to employers and employees and more flexible and performance-oriented than the former rules. The final rule accomplishes these goals without increasing the regulatory burden of employers or reducing employee protection.

Rules Coordinator: Sue Joye
Address: Oregon OSHA, 350 Winter St. NE, Salem, OR 97310
Telephone: (503) 378-3272

.....
**Department of Corrections
Chapter 291**

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Proposed Adoptions: 291-200-0010-291-200-0070
Last Date for Comment: 7-26-99

Summary: The Department of Corrections is adopting these rules to establish policy and procedures for the establishment and operation of prison advisory committees for its correctional facilities. Under these rules, every department correctional facility will be associated with a prison advisory committee whose members may work with the facility superintendent to address community concerns and improve relations between the facility and the community that it affects.

Rules Coordinator: Dave Schumacher
Address: 2575 Center St. NE, Salem, OR 97310-0470
Telephone: (503) 945-0933

**Department of Environmental Quality
Chapter 340**

Date: 7-26-99
Time: 2 p.m.
Location: 811 SW 6th Ave.
Rm. 3A
Portland

Hearing Officer: Dave Nordberg
Stat. Auth.: ORS 468.020, 468A.025 & 468A.035

Stats. Implemented: ORS 468.020, 468A.010, 468A.025 & 468A.045

Proposed Adoptions: 340-200-0010, 340-206-0020, 340-210-0020, 340-212-0010, 340-214-0010, 340-216-0030, 340-218-0030, 340-220-0020, 340-222-0030, 340-224-0020, 340-232-0110, 340-234-0300, 340-236-0110, 340-236-0210, 340-236-0400, 340-238-0030, 340-248-0200, 340-268-0010, 340-268-0020

Proposed Repeals: Chapter 340 - Divisions 021, 025, 028, 032

Proposed Ren. & Amends: Chapter 340 - Divisions 020-034

Last Date for Comment: 7-29-99

Summary: The Department of Environmental Quality is proposing to reorganize, renumber, and relabel Air Quality Rule Divisions 20 through 34. A number of existing Divisions will be divided and labeled to more accurately reflect their content. In addition, non-applicable and duplicative rules will be repealed. Renumbering the rules will allow for future growth within each division, and will provide space for additional, future Divisions. The rulemaking is intended to eliminate conflicts, purge outdated rules, and will be the basis for further streamlining planned over the coming year.

This rulemaking proposal, if adopted, will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP); OAR 340-020-0047, which is a requirement of the Clean Air Act.

**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Susan M. Greco
Address: 811 SW 6th Ave., Portland, OR 97213
Telephone: (503) 229-5213

Date: 7-22-99
Time: 4:30-6:30 p.m.
Location: Council Chambers
101 NW "A" St.
Grants Pass

Hearing Officer: Keith Tong
Stat. Auth.: ORS 468.015 & 468.035
Stats. Implemented: ORS 468A.035, 468A.085 & 468A.420
Proposed Amendments: 340-020-0047, 340-022-0470, 340-023-0115, 340-031-0520, 340-031-0530
Proposed Renumberings: 340-020-0047 to 340-200-0400, 340-022-0470 to 340-258-0130, 340-023-0115 to 340-264-0200, 340-031-0520 to 340-204-0030, 340-031-0530 to 340-204-0040*
Last Date for Comment: 7-27-99 - 5 p.m.

Summary: The Department of Environmental Quality is proposing that the Environmental Quality Commission adopt a maintenance plan and rule amendments regarding carbon monoxide in Grants Pass. The proposal, if adopted by the Environmental Quality Commission, will:

1. Establish a carbon monoxide maintenance plan for Grants Pass;
2. Request that the Environmental Protection Agency redesignate the Grants Pass Central Business District to an area that meets the National Ambient Air Quality Standards for carbon monoxide;
3. Change the state designation of the Grants Pass Central Business District to a carbon monoxide maintenance area;
4. Establish a transportation conformity budget for the Grants Pass Central Business District; and
5. Eliminate the oxygenated fuel requirement for the Grants Pass area.

The maintenance plan (and its associated appendices, including the emission inventory), the request for redesignation, and elimination of the oxygenated fuel requirement, if adopted, will be submitted to the U.S. Environmental Protection Agency as a revision to the Oregon State Implementation Plan as required by the Clean Air Act. These rulemakings will take effect upon approval by the Environmental Protection Agency.

Additionally, the Department of Environmental Quality is proposing a rule amendment relating to fine particulate (PM2.5) pollution prevention in Grants Pass. This proposal, if adopted by the Environmental Quality Commission, will expand the Rogue Basin Open Burning Control Area and will be submitted to the Environmental Protection Agency as a revision to the Oregon State Implementation Plan. The expansion of the Rogue Basin Open Burning Control Area will take effect upon adoption by the Environmental Quality Commission and filing with the Secretary of State.

Copies of the proposals are available for review at DEQ Headquarters, 11th Floor (address above); DEQ's Grants Pass Office,

Attachment B2

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal for

Air Quality Rules Renumbering and Non-substantive Changes: Divisions 20 through 34

Fiscal and Economic Impact Statement

Introduction

This is a proposed rulemaking to reorganize, renumber, and relabel Air Quality Rule Divisions 20 through 34. In addition, non-applicable and duplicative rules will be deleted, as non-substantive changes. There will be no costs due to regulatory changes. Any costs incurred by the regulated and non-regulated public are expected to be secondary costs associated with updating and replacing the current form of the rules.

General Public

The general public will not be affected by the proposed rule changes because there are no proposed regulatory changes. Secondary costs associated with updating the currently used rules version will vary considering hardcopy replacement, replacing electronic files, and necessary distribution of the revised rules.

Small Business

Small business will not be affected by the proposed rule changes, except for any secondary costs to replace existing rule references, which are not expected to be significant.

Large Business

Large business will not be affected by the proposed rule changes, except for any secondary costs to replace existing rule references. These costs may be greater compared to small business because of the integrated nature of large businesses to subsidiaries, consultants, and a larger customer base. However, these costs are not expected to be relatively more significant than to other business.

Local Governments

Local government will not be affected by these rule changes. The Lane Regional Air Pollution Authority (LRAPA) is the only other air-permitting agency in Oregon, and also will not be affected by these rule changes except that the new rule numbers will need to be used when EQC rules are referred to in LRAPA rules. Secondary costs associated with copying, mailouts, and electronic requests will be limited to the indirect (non-personnel) costs associated with those functions. No additional staff requirements are expected.

State Agencies

State Agencies will not be affected by these changes. Secondary, indirect costs associated with copying, mailouts, and electronic requests are only expected to be incurred by the Department of Environmental Quality, and the Secretary of State. No additional staff requirements are expected.

Assumptions

Because there are no regulatory changes, the cost of this proposed rule is insignificant. Additional costs will be incurred by the Department of Environmental Quality to mail the proposed rule to interested parties. However, because the proposed rule will be more useful, the Department expects increased efficiency in the permitting and compliance process. The proposed rule is expected to eliminate the time associated with navigating through disorganized Divisions and interpreting unclear rules. This time saving will be realized by all users well into the future.

Residential Development

The Department has determined that this rule making proposal will have no impact on the cost of developing a 6,000 square foot parcel and the construction of a 1,200 square-foot single-family, detached dwelling on that parcel.

Attachment B3

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for

Air Quality Rules Renumbering and Non-substantive Changes: Divisions 20 through 34

Land Use Evaluation Statement

1. Explain the purpose of the proposed rules.

This rulemaking will improve the current condition of Air Quality Rule Divisions 20 through 34. In general, these rules have become unwieldy; they are disorganized, and unclear. A number of Divisions need to be broken up and labeled to more accurately describe their content. In addition, non-applicable and duplicative rules should be deleted as non-substantive changes to eliminate rules that are no longer needed. Renumbering the rules will allow for future growth within each Division, and will provide a placeholder for multiple future Divisions.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?

Yes No

a. If yes, identify existing program/rule/activity:

Not Applicable

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?

Yes No (if no, explain):

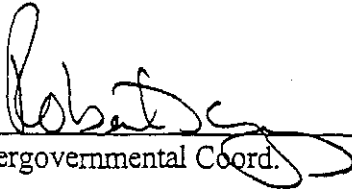
c. If no, apply the following criteria to the proposed rules.

Not applicable

3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.

Not applicable

Division



Intergovernmental Coord.

6/11/99
Date

Attachment B4

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for

Air Quality Rules Renumbering and Non-substantive Changes: Divisions 20 through 34

Questions to be Answered to Reveal
Potential Justification for Differing from Federal Requirements.

1. Are there federal requirements that are applicable to this situation? If so, exactly what are they?

This proposal merely renumbers existing state rules, and does not increase or decrease differences from federal law. The only applicable federal requirement relates to public notice of the rule amendments. The U.S. Environmental Protection Agency (EPA) requires that any State Implementation Plan (SIP) codification changes must go to public comment. EPA rules (40 CFR Part 51) specify requirements for establishing and amending the State Implementation Plan. This proposal will also be submitted to EPA as an amendment to federally approved or delegated programs, including the Title V Operating Permit Program, New Source Performance Standards, and National Emission Standards for Hazardous Air Pollutants.

This rulemaking proposal, if adopted, will be submitted EPA as a revision to the SIP; OAR 340-020-0047, which is a requirement of the Clean Air Act.

2. Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?

Not applicable.

3. Do the applicable federal requirements specifically address the issues that are of concern in Oregon? Was data or information that would reasonably reflect Oregon's concern and situation considered in the federal process that established the federal requirements?

Not Applicable

4. Will the proposed requirement improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?

Not Applicable.

5. Is there a timing issue which might justify changing the time frame for implementation of federal requirements?

Not Applicable

6. Will the proposed requirement assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth?

Not Applicable

7. Does the proposed requirement establish or maintain reasonable equity in the requirements for various sources? (level the playing field)

Not Applicable

8. Would others face increased costs if a more stringent rule is not enacted?

Not Applicable

9. Does the proposed requirement include procedural requirements, reporting or monitoring requirements that are different from applicable federal requirements? If so, Why? What is the "compelling reason" for different procedural, reporting or monitoring requirements?

Not Applicable

10. Is demonstrated technology available to comply with the proposed requirement?

Not Applicable

11. Will the proposed requirement contribute to the prevention of pollution or address a potential problem and represent a more cost-effective environmental gain?

Not Applicable

Attachment B5

**State of Oregon
Department of Environmental Quality**

Memorandum

Date: June 23, 1999
To: Interested Parties and Affected Public
Subject: Rulemaking Proposal and Rulemaking Statements - Air Quality Rules
Reorganization and Non-substantive Changes: Divisions 20 through 34

This memorandum contains information on a proposal by the Department of Environmental Quality (Department) to adopt rule amendments for Air Quality Rules.

The Department proposes to reorganize, renumber, and relabel Air Quality Rule Divisions 20 through 34. As part of this rulemaking, non-substantive changes will be made to delete non-applicable and duplicative rules within these Divisions. These amendments will make these rules easier to use, and is part of the Department's efforts to increase the efficiency of the Air Quality permitting and compliance process.

This rulemaking proposal, if adopted, will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP); OAR 340-020-0047, which is a requirement of the Clean Air Act. This proposal will also be submitted to EPA as an amendment to other federally approved or delegated programs, including the Title V Operating Permit Program, New Source Performance Standards, and National Emissions Standards for Hazardous Air Pollutants. Pursuant to ORS 183.335, this memorandum also provides information about the Environmental Quality Commission's intended action to amend Oregon Administrative Rules.

The Department's statutory authority to revise the SIP resides in ORS 468A.035. The Department's statutory authority to establish and adopt air quality standards resides in ORS 468.020 and ORS 468A.025. The Department's statutory permitting authority resides in ORS 468A.040.

What's in this Package?

Attachments to this memorandum provide details on the proposal as follows:

- Attachment A The official statement describing the fiscal and economic impact of the proposed rule (required by ORS 183.335).
- Attachment B A statement providing assurance that the proposed rules are consistent with statewide land use goals and compatible with local land use plans.
- Attachment C Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements.
- Attachment D The Rule Renumbering Index, and Rules to Be Repealed

Attachment D includes only the renumbering index, and the list of rules that will be added or repealed. Proposed new Division and Rule numbers are provided, with the corresponding current Division and Rule references. This rulemaking does not include any substantive changes. Unless otherwise noted on the index, only rule numbering and cross-references are proposed to be changed. In a few cases, additional changes were needed to support the new organization, and these changes are noted on the index. A complete text of all the rule changes is available for review at the Department of Environmental Quality's office at 811 SW 6th Avenue, Portland, Oregon, and is also available in the Department's regional offices. Contact information, and regional office addresses are provided at the end of this notice.

Hearing Process Details

The Department is conducting a public hearing and you are invited to review these materials and present written or oral comment. The hearing will be held as follows:

Date: July 26, 1999
Time: 2:00 p.m.
Place: 811 SW 6th Avenue, Third Floor, Room 3A
Portland, OR

Deadline for submittal of Written Comments: July 29, 1999 at 5:00 p.m.

Written comments can be presented at the hearing or to the Department any time before the comment deadline, above. Comments should be sent to: Department of Environmental Quality, Scott Manzano, 811 S.W. 6th Avenue - 11th floor, Portland, Oregon 97204. Comments may also be hand delivered to the same address, between 8:00 a.m. and 5:00 p.m., Monday through Friday.

In accordance with ORS 183.335(13), no comments from any party can be accepted after the deadline for submission of comments has passed. If you want your comments to be considered by the Department in the development of these rules, your comments must be received before the close of the comment period. The Department recommends that comments be submitted as early as possible to allow for adequate review and evaluation.

Dave Nordberg of the Department staff will be the Presiding Officer at the hearing.

What Happens After the Public Comment Period Closes?

Following close of the public comment period, the Presiding Officer will prepare a report which summarizes the oral testimony presented and identifies written comments submitted. The

Environmental Quality Commission (EQC) will receive a copy of the Presiding Officer's report. The public hearing will be tape recorded, but the tape will not be transcribed.

The Department will review and evaluate the rulemaking proposal in light of all information received during the comment period. Following the review, the rules may be presented to the EQC as originally proposed or with modifications made in response to public comments received.

The EQC will consider the Department's recommendation for rule adoption during one of their regularly scheduled public meetings. The targeted meeting date for consideration of this rulemaking proposal is October 1, 1999.

The Department will notify you of the time and place for final EQC action if you present oral testimony at the hearing or submit written comment during the comment period. Otherwise, if you want to be appraised of this proceeding and receive a copy of the recommendation that is presented to the EQC for adoption, please request that your name be placed on the mailing list for this rulemaking proposal.

Background on Development of the Rulemaking Proposal

Why is there a need for the rule?

This rulemaking is one part of the Department's efforts to increase the efficiency of the Air Quality permitting and compliance process, and is the first step of further rule streamlining planned over the coming year. A number of the existing Divisions need to be divided and labeled to more accurately describe their content. In addition, non-applicable and duplicative rules need to be repealed to eliminate conflicts and purge outdated rules. Renumbering the rules will allow for future growth within each Division, and will provide space for the additional, future Divisions.

This first step is intended to allow staff and the public to become familiar with the new rule organization before planned substantive improvements are proposed over the coming year. Department staff and regulatory stakeholders will save significant time and effort by using rules that are easier to apply.

How was the rule developed?

The renumbering was developed by Department staff with review by the Attorney General's Office. No advisory committee was convened for the proposed rule change because no policy decisions were needed. However, the Department plans to meet with interested stakeholders

during the public comment period.

The documents relied upon to develop this rulemaking proposal include the previously provided statutory references and Air Quality Rule Divisions 20 through 34, which can be reviewed at the Department of Environmental Quality's office at 811 SW 6th Avenue, Portland, Oregon. Please contact Scott Manzano at 503-229-6156 for times when the documents are available for review.

Whom does this rule affect including the public, regulated community or other agencies, and how does it affect these groups?

In general, the proposed rule will not affect the public, the regulated community, or other agencies because there are no proposed regulatory changes. Any effects from this rulemaking are expected to be secondary, specifically associated with updating, replacing, and re-distributing the existing form of the Air Quality rules. Any costs incurred by the regulated community to address these secondary aspects are expected to be uniform to all users, and non-substantial.

State Agencies will not be affected by these changes. The Department of Environmental Quality will incur indirect costs associated with copying, mailouts, and electronic requests for the new rules. The Lane Regional Air Pollution Authority is the only other air-permitting agency in Oregon, and will incur similar cost as the Department. No additional staff requirements will be needed, and as previously provided, the Department expects all users to benefit from a more efficient form of these rules.

How will the rule be implemented?

Although there are no proposed regulatory changes, all interested and affected parties will be notified of the new rule organization; the new rules with cross-references to the old rules will be provided. Permitted sources will also be informed of new rule references at permit modification and renewal. Air Quality managers and staff have been informed of the proposed reorganization, and will also be provided with cross-references after the rule is adopted.

Are there time constraints?

The Department prefers that the rules be adopted before the end of 1999 so that they will be codified with the new numbers in the next printing by the Secretary of State.

Contact for More Information

For more information regarding this rulemaking proposal, or if you would like to be added to the mailing list, please contact:

Memo To: Interested and Affected Public
Annual Oregon Title V Operating Permit Fee Increase
Page 5

Scott Manzano, Oregon DEQ
811 SW 6th Avenue - 11th floor
Portland, OR 97204
(503) 229-6156

A full text of the proposed amendments will be also be available for review at the regional locations listed below. If you have any questions, please contact Scott Manzano.

Regional Office Addresses

Northwest Region Office
2020 SW 4th Avenue #400
Portland, OR 97201-4987

Bend Office
2146 NE 4th, #104
Bend, OR 97701

Coos Bay Office
340 N Front Street
Coos Bay, OR 97420

Klamath Falls Office
700 Main Street, Suite 202
Klamath Falls, OR 97601

Medford Office
210 W Main Street, Suite 2-D
Medford, OR 97501

Pendleton Office
700 SE Emigrant, Suite 330
Pendleton, OR 97801

Salem Office
750 Front Street NE, Suite 120
Salem, OR 97310

This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Public Affairs at 503-229-5317 to request an alternate format.

Attachment C

State of Oregon

Department of Environmental Quality

Memorandum

Date: July 27, 1999

To: Environmental Quality Commission

From: ^{DN} Dave Nordberg, DEQ Staff

Subject: Presiding Officer's Report for Rulemaking Hearing

Title of Proposal: Air Quality Rules Reorganization and Non-substantive
Changes: Divisions 20 through 34

Hearing Officer: Dave Nordberg, DEQ

Date and Time: July 26, 1999 at 2:00 p.m.

Location: Department of Environmental Quality
Headquarters Conference Rm. 3A
811 SW 6th Ave.
Portland, OR 97204

The rulemaking hearing on the above titled proposal was convened at 2:00 p.m. No members of the public attended and the hearing was closed at 2:30 p.m.

Attachment D

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal

for

Air Quality Rules Renumbering and Non-substantive Changes: Divisions 20 through 34

Evaluation of Public Comment

The following comments were submitted by Stole Rives Attorneys on July 29, 1999.

- 1) First, although the reorganization is not intended to result in any substantive changes, we are concerned that the reorganization of definitions into new sections may result in inadvertent and unexpected applications of the definitions. It appears that the Department has taken care to avoid this, and have not identified any such results, but we believe that it would be useful for the Environmental Quality Commission (EQC) to state explicitly when adopting the reorganization that no substantive changes are intended.

The Department reviewed the applicability of definitions in the reorganized Divisions and is not proposing any change in response to the comment.

- 2) Second, the reorganized rules will be submitted to EPA as a SIP revision, but many of the rules are not part of the SIP. We understand that the Department does not intend to incorporate any of these non-SIP provisions into the SIP through this rulemaking, but, again, it would be useful for the EQC to state that explicitly when adopting the rule reorganization and for the Department to emphasize that when submitting the reorganized rules to EPA for approval. Because SIP provisions are federally enforceable and may not be changed without EPA approval, incorporating non-SIP provisions into the SIP could have very significant consequences for the Department's air program and for regulated entities in Oregon.

The Department discussed this comment with Stole Rives and is not proposing any change in response to the comment.

The Department made changes to the proposed rules in response to comments from Air Quality staff during the public comment period. A summary is provided in the following table.

Change Number	Proposed Rule Number/ Existing Rule Number	Change	Reason
1	200-0020(132)/ 028-0110(134)	340-028-0630 changed to: 340-226-0130.	Cross reference correction.
2	200-0020(16)(a)/ 028-0110(17)(a)	Divisions 20 through 32 changed to: divisions 200 through 268 except for divisions 248 and 262.	Cross reference correction.
3	200-0020(76)/ 028-0110(78)	This Division changed to: divisions 216 and 218.	Cross reference correction.
4	202-0010 through 202-0220/ 031-0005 through 031-0115	340-020-0047 changed to: 340-200-0040 in rule notes.	Cross reference correction.
5	202-0050(2)/ 031-0010(2)	340-020-0030 changed to: 340-210-0200 through 340-210-0220, and OAR 340- 218-0190.	Cross reference correction.
6	202-0010(5)/ 031-0005(5)	OAR 340-031-005 through 340-031- 0055 changed to: this division	Cross reference correction.
7	202-0020(1)/ 031-0100(1)	340-200-0200 through 340-200-0220 changed to: 340-202-0200 through 340- 202-0220	Cross reference correction.
8	204-0010(28), and 204-0010(29)	Definitions added for: UGA, UGB.	Definitions needed for these acronyms that are used throughout air quality rules.
9	204-0080 and 204-0090/ 024-0301 and 0022-0470	Rule Index change only. Switched explanatory notes. Note for 0080 (Klamath Falls and Grants Pass) described 0090 (Portland Vehicle Inspection Area) and visa versa.	Inaccurate note explanation regarding proposed rule change.
10	206 Table 2 Part B(c)/ 027 Table 2 Part B(c)	340-07-015(3) changed to: 340-206- 0050.	Cross reference correction.

11	208-0010/ 021-0005	340-028-1100 and 1120 changed to: 340-212-0120 and 212-0140.	Cross reference correction.
12	208-0610/ 030-0510	340-028-0610 changed to: 340-208-0610	Cross reference correction.
13	212-0220/ 028-1220	340-212-0120 changed to: 340-212-0210	Cross reference correction.
14	212-0230/ 028-1230	340-212-0200 changed to: 340-212-0220	Cross reference correction.
15	216-0100/ 028-1790	Removed language in rule notes stating this rule was part of the SIP	This rule is not included in the SIP
16	218-0250/ 028-1790	Removed language in rule notes stating this rule was part of the SIP	This rule is not included in the SIP
17	222-0060/ 028-1050	OAR 340-224-0040 or OAR 340-224-0230 changed to: OAR 340-244-0040 or OAR 340-244-0230	Cross reference correction.
18	224-0050(3)/ 028-1930(3)	Added an additional cross-reference: 340-240-0060.	Clarification change; the added reference was to the Medford Ashland AQMA, which has offset requirements in conjunction with 224-0050(3).
19	224-0056(3)(a)/ 028-1935(3)	Added an additional cross-reference: 340-240-0060.	Clarification change; the added reference was to the Medford Ashland AQMA, which has offset requirements in conjunction with 224-0050(3).
20	224-0060(8)(b)/ 028-1935(8)(b)	340-042-0440 changed to: 340-242-0440	Cross reference correction.
21	224-0080(4)/ 028-1950(4)	340-224-0200 changed to: 340-244-0200	Cross reference correction.
22	226-0140/ 026-0640	Added existing rule to New Division 226	Omitted the existing rule in the proposed renumbered rules.
23	226-0400/ 028-1030	340-028-1970 changed to: 340-224-0090.	Cross reference correction.
24	228-0210/	340-021-0200 (in rule history) changed	Cross reference correction.

	021-0020	to: 340-021-0020.	
25	228-0300/ 022-0075	Removed language in rule notes stating this rule was part of the SIP	This rule is not included in the SIP.
26	230-0020(1)/ 025-0852(1)	Solid and Infectious Waste Incinerator applicability sentence presented as 230-0020(1), (1)(a), and (1)(b).	Sentence too long and interpretive - change to simplify and clarify.
27	230-0030/ 025-0750	340-238-0060 changed to: 340-238-0040	Cross reference correction.
28	230-0030/ 025-0750	Included definitions from Hospital Waste Incinerator rule to proposed rule 230-0030.	Moved from specific HWI rule to proposed Division 230 definitions rule.
29	230-0400(1)/ 025-0750(1)	340-230-0040 changed to: 340-230-0400	Cross reference correction.
30	232-0030/ 022-0102	Added "SOS Rule History" at end of rule.	SOS Rule History omitted from proposed renumbered rule.
31	232-0040/ 022-0104	340-020-0047 in SIP note changed to: 340-200-0040	Cross reference correction.
32	232-0085/ 022-0125	Added to rulemaking package.	Existing rule that was omitted from the public comment document.
33	234-0010(10)(b)/ 025-0350(5)	340-234-0450 changed to: 340-234-0430	Cross reference correction.
34	236-0410(2)/ 025-0110(2)	340-208-0010 changed to: 340-208-0110	Cross reference correction.
35	238-0100/ 025-0740	Did not repeal existing rule as proposed for public comment.	The rule (for Municipal Waste Landfills) did not clearly duplicate the federal standard.
36	238-0400 and 0410/ 025-0750	Did not repeal existing rule as proposed for public comment.	The rule (for Hospital Waste Incinerators) did not clearly duplicate the federal standard.
37	240-0110(3)(c)/ 030-0115(3)(c)	340-268-0010 changed to: 340-268-0030	Cross reference correction.
38	240-0140/	240-0140 was incorrectly labeled 340-	Rule number should be 240-0140.

	030-0030	0140. Changed to: 240-0140	
39	240-0210(1)(a)/ 030-0050(1)(a)	340-240-0110 changed to: 340-240-0270	Cross reference correction.
40	242-0050/ 030-0840	Proposed rule title changed back to existing title.	Clearer meaning than title proposed for public comment.
41	242-0710(68)/ 022-0910(68)	340-242-0810 changed to: 340-242-0750	Cross reference correction.
42	242-0700 through 242-0750/ 022-1000 through 022-1050	Will not propose to change existing rule numbers; leave as existing rule numbers.	These rules - Architectural Coatings (AC) - have been repealed. Repeal effective 3/2000.
43	242-0760 through 242-0810/ 022-0900 through 022-0950	Renumbered to 242-0700 through 242-0750	Renumbered because proposed AC rule numbers were eliminated
44	242-0820 through 242-0850/ 022-1100 through 022-1130	Renumbered to 242-0760 through 242-0790	Renumbered because proposed AC rule numbers were eliminated
45	244-0030(14)(d)/ 032-0120(14)(d)	340-218-0200 changed to: 340-218-0190	Cross reference correction.
46	244-0110(4)/ 032-0310(4)	340-244-0240 changed to: 340-244-0140	Cross reference correction.
47	244-0120(5)/ 032-0320(5)	340-218-0130 changed to: 340-218-0040	Cross reference correction.
48	244-0220/ 032-0510	340-032-0520 in "Rule history" changed to: 340-232-0510	Cross reference correction.
49	250-0030(29)/ 020-1510(29)	340-250-0030 changed to: 340-250-0020	Cross reference correction.
50	250-0040/ 020-1530	340-250-0030 changed to: 340-250-0020	Cross reference correction.
51	250-0070(3)/ 020-1560(3)	340-250-0030 changed to: 340-250-0020	Cross reference correction.
52	250-0080(1)/ 020-1570(1)	340-250-0030 changed to: 340-250-0020	Cross reference correction.
53	252-0030(5)/	340-252-0600 changed to: 340-252-0060	Cross reference correction.

	020-0720(5)		
54	255-0300/ 024-0300	340-024-0350 changed to: 340-256-0460	Cross reference correction.
55	258-0140 and 258-0150/ 022-0503 and 022-0507	Added proposed SIP rule renumber 340-200-0040 in rule notes.	Show that these rules are part of the SIP
56	258-0200/ 020-0136	340-258-0100 changed to: 340-258-0010	Cross reference correction.
57	260-0010/ 022-0405	340-022-0404 in "Rule history" changed to: 340-222-0405	Cross reference correction.
58	264-0010(1)/ 023-0022(1)	Changed Division 26 to: Division 266	Cross reference correction.
59	264-0040/ 023-0035	340-264-0080 in "Rule history" changed to: 340-023-0035	Cross reference correction.
60	264-0040(5)/ 023-0035(5)	Changed Division 26 to: Division 266	Cross reference correction.
61	264-0040(5)/ 023-0022(5)	340-023-0045 in "Rule history" changed to: 340-223-0043	Cross reference correction.

Attachment E

State of Oregon DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal for

Air Quality Rules Renumbering and Non-substantive Changes: Divisions 20 through 34

Rule Implementation Plan

Summary of the Proposed Rule:

This purpose of this rulemaking is to reorganize and relabel Air Quality OARs 340, Divisions 20 through 34. This rulemaking is intended to increase the efficiency of the Air Quality permitting and compliance process, and is the first step of future streamlining planned by the Department over the coming year. The existing Air Quality rules will be reorganized and relabeled to more accurately describe their content. Non-applicable and duplicative rules will be repealed to eliminate conflicts and purge outdated requirements. This rulemaking will also provide the regulated community with less complex, easier to understand rules.

Proposed Effective Date of the Rule

October 1, 1999

Proposal for Notification of Affected Persons

After adoption of this rule, interested and affected parties will be provided rule numbering cross-references as requested. A meeting was held July 29, 1999 to inform interested parties of the status and context of the rule reorganization. Permitted sources will be informed of the new rule references at permit modification and renewal.

Proposed Implementing Actions

The new rules numbers will be utilized by all affected parties when adopted and filed with the Secretary of State. Rule citations in permits will be updated when the permits are renewed or modified. Since this rulemaking is non-substantive, no regulatory change will occur. The Department does not foresee a significant challenge to learn and implement these easier to use rules.

Proposed Training/Assistance Actions

All Air Quality staff have been informed of the context and progress of this rulemaking effort. A significant effort was also provided by air quality staff to reorganize and review these proposed rules. The Department expects that other affected parties will become familiar with the new numbering system over a relatively short period of time.

DIVISION 200
GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

General

340-200-0010

Purpose and Application

(1) The purpose of this Division is to provide general air pollution procedures and definitions that apply to all air quality rules in Divisions 200 through 268.

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

(3) Divisions 200 through 268 are administered by the Department in all areas of the State of Oregon except in Lane County where air pollution control regulations are administered by the Lane Regional Air Pollution Authority.

Stat. Auth.: ORS 468.020

Stat. Implemented: ORS Ch. 468 and 468A

Hist.:

340-028-0110200-0020

General Air Quality Definitions

As used in ~~this~~ Divisions 200 through 268, except where specifically defined otherwise:

(1) "Act" or "FCAA" means the Federal Clean Air Act, Public Law 88-206 as last amended by Public Law 101-549.

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

(3) "Actual emissions" means the mass emissions of a pollutant from an emissions source during a specified time period. Actual emissions shall be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the specified time period.

(a) For purposes of determining actual emissions as of the baseline period:

(A) Except as provided in paragraph (B) of this subsection, actual emissions shall equal the average rate at which the source actually emitted the pollutant during a baseline period and which is representative of normal source operation;

(B) The Department may presume the source-specific mass emissions limit included in the permit for a source that was effective on September 8, 1981 is equivalent to the actual emissions of the source during the baseline period if it is within 10% of the actual emissions calculated under paragraph (A) of this subsection.

(b) For any source which had not yet begun normal operation in the specified time period, actual emissions shall equal the potential to emit of the source.

(c) For purposes of determining actual emissions for Emission Statements under OAR ~~340-028-1500214-0200~~ through ~~340-028-1520214-0220~~, Major Source Interim Emission Fees under OAR ~~340-028-2400~~ through ~~340-028-2550~~, and Oregon Title V Operating Permit Fees under OAR ~~340-028-2560~~ through ~~340-028-2740~~ division 220, actual emissions include, but are not limited to, routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities.

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

(5) "Affected States" mean all States:

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

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

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

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

(b) 120 pounds for lead;

(c) 600 pounds for fluoride;

(d) 500 pounds for PM₁₀ in a PM₁₀ nonattainment area;

(e) The lesser of the amount established in OAR 340-032-0130244-0040, **Table 1** or OAR 340-032-5400244-0230, **Table 3**, or 1,000 pounds;

(f) An aggregate of 5,000 pounds for all Hazardous Air Pollutants.

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

(8) "Air Contaminant Discharge Permit" or "ACDP" means a written permit issued, renewed, amended, or revised by the Department, pursuant to OAR 340-028-1700 through 340-028-1790 division 216 and includes the application review report.

(9) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance. An alternative method used to meet an applicable federal requirement for which a reference method is specified shall be approved by EPA unless EPA has delegated authority for the approval to the Department.

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

(a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52 (July 1, 1997);

(b) Any standard or other requirement adopted under OAR 340-020-0047200-0040 of the State of Oregon Clean Air Act Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;

(c) Any term or condition in an ACDP, OAR 340-028-1700 through 340-028-1790 division 216, including any term or condition of any preconstruction permits issued pursuant to OAR 340-028-1900 through 340-028-2000 division 224, New Source Review, until or unless the Department revokes or modifies the term or condition by a permit modification;

(d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-028-0800210-0200 through 340-028-0820210-0220, until or unless the Department revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;

(e) Any term or condition in a Notice of Approval, OAR 340-028-2270218-0190, until or unless the Department revokes or modifies the term or condition by a Notice of Approval or a permit modification;

(f) Any standard or other requirement under section 111 of the Act, including section 111(d);

(g) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r) (7) of the Act;

(h) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(i) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(j) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(k) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(l) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(m) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;

(n) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in an Oregon Title V Operating Permit; and

(o) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

(11) "Assessable Emission" means a unit of emissions for which the major source owner or operator will be assessed a fee. It includes an emission of a pollutant as specified in ~~OAR 340-028-2420~~ or ~~OAR 340-028-2610~~220-0060 from one or more emissions devices or activities within a major source.

(12) "Baseline Emission Rate" means the average actual emission rate during the baseline period. Baseline emission rate shall not include increases due to voluntary fuel switches or increased hours of operation that have occurred after the baseline period.

(13) "Baseline Period" means either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.

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

~~(15) "Calculated Emissions" as used in OAR 340-028-2400 through 340-028-2550 means procedures used to estimate emissions for the 1991 calendar year.~~

~~(156)~~ "Capture system" means the equipment (including but not limited to hoods, ducts, fans, and booths) used to contain, capture and transport a pollutant to a control device.

~~(167)~~ "Categorically insignificant activity" means any of the following listed pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.

(a) Constituents of a chemical mixture present at less than 1% by weight of any chemical or compound regulated under Divisions ~~020 through 032~~200 through 268 excluding Divisions 248 and 262 of this chapter, or less than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year;

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

(c) Distillate oil, kerosene, and gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hr;

(d) Natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr;

(e) Office activities;

(f) Food service activities;

(g) Janitorial activities;

(h) Personal care activities;

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

(j) On-site laundry activities;

(k) On-site recreation facilities;

(l) Instrument calibration;

(m) Maintenance and repair shop;

(n) Automotive repair shops or storage garages;

(o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;

(p) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;

(q) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;

(r) Temporary construction activities;

(s) Warehouse activities;

(t) Accidental fires;

- (u) Air vents from air compressors;
- (v) Air purification systems;
- (w) Continuous emissions monitoring vent lines;
- (x) Demineralized water tanks;
- (y) Pre-treatment of municipal water, including use of deionized water purification systems;
- (z) Electrical charging stations;
- (aa) Fire brigade training;
- (bb) Instrument air dryers and distribution;
- (cc) Process raw water filtration systems;
- (dd) Pharmaceutical packaging;
- (ee) Fire suppression;
- (ff) Blueprint making;
- (gg) Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;
- (hh) Electric motors;
- (ii) Storage tanks, reservoirs, transfer and lubricating equipment used for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;
- (jj) On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;
- (kk) Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;
- (ll) Pressurized tanks containing gaseous compounds;
- (mm) Vacuum sheet stacker vents;
- (nn) Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;
- (oo) Log ponds;
- (pp) Storm water settling basins;
- (qq) Fire suppression and training;
- (rr) Paved roads and paved parking lots within an urban growth boundary;
- (ss) Hazardous air pollutant emissions of fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;
- (tt) Health, safety, and emergency response activities;
- (uu) Emergency generators and pumps used only during loss of primary equipment or utility service;
- (vv) Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;
- (ww) Non-contact steam condensate flash tanks;
- (xx) Non-contact steam vents on condensate receivers, deaerators and similar equipment;
- (yy) Boiler blowdown tanks;
- (zz) Industrial cooling towers that do not use chromium-based water treatment chemicals;
- (aaa) Ash piles maintained in a wetted condition and associated handling systems and activities;
- (bbb) Oil/water separators in effluent treatment systems;
- (ccc) Combustion source flame safety purging on startup;
- (ddd) Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;
- (eee) Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and
- (fff) White water storage tanks.
- (178) "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.
- (189) "CFR" means Code of Federal Regulations.
- (1920) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I rea. Class I areas are identified in OAR 340-031-0120204-0250.
- (204) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the Act and either has:

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

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

(212) "Commission" or "EQC" means Environmental Quality Commission.

(223) "Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.

(234) "Construction":

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

(b) As used in OAR 340-028-1900 through 340-028-2000 division 224 means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or change in the method of operation of a source which would result in a change in actual emissions.

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

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

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

(256) "Continuous Monitoring Systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems and continuous parameter monitoring systems.

(267) "Control device" means equipment, other than inherent process equipment, that is used to destroy or remove air pollutant(s) prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices (such as carbon beds), condensers, scrubbers (such as wet collection and gas absorption devices), selective catalytic or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems (such as water, steam, ammonia, sorbent or limestone injection), and combustion devices independent of the particular process being conducted at an emissions unit (e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters). For purposes of OAR 340-028-1200212-0200 through 340-028-1280212-0280, a control device does not include passive control measures that act to prevent pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular pollutant-specific emissions unit, then that definition shall be binding for purposes of OAR 340-028-1200212-0200 through 340-028-1280212-0280.

(278) "Criteria Pollutant" means nitrogen oxides, volatile organic compounds, particulate matter, PM₁₀, sulfur dioxide, carbon monoxide, or lead.

(2829) "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.

(2930) "Department":

(a) As used in OAR 340-028-0100 through 340-028-2000 and OAR 340-028-2400 through 340-028-2550 means Means Department of Environmental Quality; except

(b) As used in OAR 340-028-2100 through 340-028-2320 divisions 218 and OAR 340-028-2560 through 340-028-2740-220 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Pollution Authority.

(304) "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.

(312) "Director" means the Director of the Department or the Director's designee.

(323) "Draft permit" means the version of an Oregon Title V Operating Permit for which the Department or Lane Regional Air Pollution Authority offers public participation under OAR 340-028-2290218-0210 or the EPA and affected State review under OAR 340-028-2310218-0230.

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

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

(356) "Emission" means a release into the atmosphere of any regulated pollutant or air contaminant.

(367) "Emission Estimate Adjustment Factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.

(378) "Emission Factor" means an estimate of the rate at which a pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate). Sources shall use an emission factor approved by EPA or the Department.

(389)(a) Except as provided in subsection (b) of this section, "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or 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.

(b) As used in OAR ~~340-28-1200~~212-0200 through ~~340-028-1280~~212-0280, "Emission limitation or standard" means any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the Act. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions (e.g., pounds of SO₂ per hour, pounds of SO₂ per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO₂) or as the relationship of uncontrolled to controlled emissions (e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO₂). An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280, an emission limitation or standard shall not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, to operate and maintain sources in accordance with good air pollution control practices, to develop and maintain a malfunction abatement plan, to keep records, submit reports, or conduct monitoring.

(3940) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of OAR ~~340-028-1900~~ through ~~340-028-2000~~ division 224, New Source Review, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(404) "Emission Reporting Form" means a paper or electronic form developed by the Department that shall be completed by the permittee to report calculated emissions, actual emissions or permitted emissions for interim emission fee assessment purposes.

(412) "Emissions unit" means any part or activity of a source that emits or has the potential to emit any regulated air pollutant.

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

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

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

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

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

(d) Parts and activities shall not be grouped for purposes of determining emissions increases from an emissions unit under OAR ~~340-028-1930~~224-0050 through ~~OAR 340-028-1935~~, OAR ~~340-028-1940~~224-0070, or OAR ~~340-028-2270~~218-0190, or for purposes of determining the applicability of any New Source Performance Standard (NSPS).

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

(434) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified shall be approved by EPA unless EPA has delegated authority for the approval to the Department.

(445) "Event" means excess emissions which arise from the same condition and which occur during a single calendar day or continue into subsequent calendar days.

(456) "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions (or opacity) are greater than the applicable emission limitation or standard (or less than the applicable standard in the case of a percent reduction requirement) consistent with any averaging period specified for averaging the results of the monitoring.

(467) "Excess emissions" means emissions which are in excess of a permit limit or any applicable air quality rule.

(478) "Excursion" means a departure from an indicator range established for monitoring under OAR 340-028-1200212-0200 through 340-028-1280212-0280 and 340-028-2130218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.

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

(4950) "Final permit" means the version of an Oregon Title V Operating Permit issued by the Department or Lane Regional Air Pollution Authority that has completed all review procedures required by OAR 340-028-2200218-0120 through 340-028-2320218-0240.

(504) "Fugitive Emissions":

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

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

(512) "General permit" :

(a) Except as provided in subsection (b) of this section, means an Oregon Air Contaminant Discharge Permit established under OAR 340-028-1725216-0060;

(b) As used in OAR 340-028-2100 through 340-028-2320 division 218 means an Oregon Title V Operating Permit established under OAR 340-028-2170218-0090.

(523) "Growth Allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.

(534) "Immediately" means as soon as possible but in no case more than one hour after the beginning of the excess emission period.

(545) "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of OAR 340-028-1200212-0200 through 340-028-1280212-0280, inherent process equipment is not considered a control device.

(556) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.

(567) "Insignificant Change" means an off-permit change defined under OAR 340-028-2220218-0140(2)(a) to either a significant or an insignificant activity which:

(a) Does not result in a redesignation from an insignificant to a significant activity;

(b) Does not invoke an applicable requirement not included in the permit; and

(c) Does not result in emission of regulated air pollutants not regulated by the source's permit.

(58) "~~Interim Emission Fee~~" means ~~\$13 per ton for each assessable emission subject to emission fees under OAR 340-028-2420 for calculated, actual or permitted emissions released during calendar years 1991 and 1992.~~

(579) "Large Source" as used in OAR ~~340-028-1400~~214-0300 through ~~340-028-1450~~214-0350 means any stationary source whose actual emissions or potential controlled emissions while operating full-time at the design capacity are equal to or exceed 100 tons per year of any regulated air pollutant, or which is subject to a National Emissions Standard for Hazardous Air Pollutants (NESHAP). Where PSELs have been incorporated into the ACDP, the PSEL shall be used to determine actual emissions.

(5860) "Late Payment" means a fee payment which is postmarked after the due date.

(5964) "Lowest Achievable Emission Rate" or "LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. In no event, shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.

(602) "Maintenance Area" means a geographical area of the State that was designated as a nonattainment area, redesignated as an attainment area by EPA, and redesignated as a maintenance area by the Environmental Quality Commission in OAR Chapter 340, Division 31.

(613) "Maintenance Pollutant" means a pollutant for which a maintenance area was formerly designated a nonattainment area.

(624) "Major Modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase for any regulated air pollutant. This criteria also applies to any pollutants not previously emitted by the source. Calculations of net emission increases shall take into account all accumulated increases and decreases in actual emissions occurring at the source since the baseline period, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations in OAR ~~340-028-1900~~ through ~~340-028-2000~~ division 224 for that pollutant, whichever time is more recent. Emissions from insignificant activities shall be included in the calculation of net emission increases. Emission decreases required by rule shall not be included in the calculation of net emission increases. If accumulation of emission increases results in a net significant emission rate increase, the modifications causing such increases become subject to the New Source Review requirements, including the retrofit of required controls.

(635) "Major Source":

(a) Except as provided in subsections (b) and (c) of this section, means a source which emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate, as defined in this rule. Emissions from insignificant activities shall be included in determining if a source is a major source.

(b) As used in OAR ~~340-028-2100~~ through ~~340-028-2320~~ division 218, Rules Applicable to Sources Required to Have Oregon Title V Operating Permits, ~~OAR 340-028-2560~~ through ~~340-028-2740~~ division 220, Oregon Title V Operating Permit Fees, and OAR ~~340-028-1740~~216-0080, Synthetic Minor Sources, means any stationary source, (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)), belonging to a single major industrial grouping or is supporting the major industrial group and that are described in paragraphs (A), (B), or (C) of this subsection. For the purposes of this subsection, a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.

(A) A major source of hazardous air pollutants, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutants which has been listed pursuant to OAR ~~340-032-0130~~244-0040, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule.

Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant, including any major source of fugitive emissions of any such pollutant.

The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(C) A major stationary source as defined in part D of Title I of the Act, including:

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

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of VOCs;

(iii) For carbon monoxide nonattainment areas:

(I) That are classified as "serious;" and

(II) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide.

(iv) For particulate matter (PM₁₀) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM₁₀.

~~(e) as used in OAR 340-028-2400 through 340-028-2550, Major Source Interim Emission Fees, means a permitted stationary source or group of stationary sources located within a contiguous area and under common control or any stationary facility or source of air pollutants which directly emits, or is permitted to emit:~~

~~—(A) One hundred tons per year or more of any regulated pollutant; or~~

~~—(B) Fifty tons per year or more of a VOC and is located in a serious ozone nonattainment area.~~

(646) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process.

(657) "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Recordkeeping may be considered monitoring where such records are used to determine or assess compliance with an emission limitation or standard (such as records of raw material content and usage, or records documenting compliance with work practice requirements). The conduct of compliance method tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis may be considered monitoring (or as a supplement to other monitoring), provided that requirements to conduct such tests on a one-time basis or at such times as a regulatory authority may require on a non-regular basis are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques, where appropriate for a particular circumstance:

- (a) Continuous emission or opacity monitoring systems.
- (b) Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.
- (c) Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).
- (d) Maintenance and analysis of records of fuel or raw materials usage.
- (e) Recording results of a program or protocol to conduct specific operation and maintenance procedures.
- (f) Verification of emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.
- (g) Visible emission observations.
- (h) Any other form of measuring, recording, or verifying on a routine basis emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.

(668) "Nitrogen Oxides" or "NO_x" means all oxides of nitrogen except nitrous oxide.

(679) "Nonattainment Area" means a geographical area of the State that exceeds any state or federal primary or secondary ambient air quality standard as designated by the Environmental Quality Commission in OAR Chapter 340, Division 031, or the EPA.

(7068) "Nonattainment Pollutant" means a pollutant for which an area is designated a nonattainment area.

(7469) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.

(702) "Offset" means an equivalent or greater emission reduction which is required prior to allowing an emission increase from a proposed major source or major modification of a source.

(713) "Oregon Title V Operating Permit" means any permit covering an Oregon Title V Operating Permit source that is issued, renewed, amended, or revised pursuant to OAR 340-028-2100 through 340-028-2320 division 218.

(724) "Oregon Title V Operating Permit program" means a program approved by the Administrator under 40 CFR Part 70 (July 1, 1997).

(735) "Oregon Title V Operating Permit program source" means any source subject to the permitting requirements, OAR 340-028-2100 through OAR 340-028-2320, as provided in OAR 340-028-2110 division 218.

(746) "Ozone Season" means the contiguous 3 month period of the year during which ozone exceedances typically occur (i.e., June, July, and August).

(757) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual, (January, 1992).

(768) "Permit" means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit issued pursuant to this Divisions 216 and 218.

(779) "Permit modification" means a revision to a permit that meets the applicable requirements of OAR 340-028-1700 through 340-028-1790 division 216, OAR 340-028-1900 through 340-028-2000 division 224, or OAR 340-028-2240 218-016 through 340-028-2260 218-0180.

(8078) "Permit revision" means any permit modification or administrative permit amendment.

(8179) "Permitted Emissions" as used in OAR 340-028-2400 through 340-028-2550, and OAR 340-028-2560 through 340-028-2740 division 220 means each assessable emission portion of the PSEL, as identified in an ACDP, Oregon Title V Operating Permit, review report, or by the Department pursuant to OAR 340-028-2640 220-0190.

(802) "Permittee" means the owner or operator of the facility, in whose name the operation of the source is authorized by the ACDP or the Oregon Title V Operating Permit.

(813) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal government and any agencies thereof.

(824) "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one assessable emission.

(853) "PM₁₀":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992);

(b) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with **40 CFR Part 50, Appendix J** (July, 1997).

(846) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated air pollutant.

(857) "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 Administrator. This definition does not alter or affect the use of this term 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.

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

(879) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(9088) "Proposed permit" means the version of an Oregon Title V Operating Permit that the Department or Lane Regional Air Pollution Authority proposes to issue and forwards to the Administrator for review in compliance with OAR 340-028-2310218-0230.

(894) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 60, 61 or 63 (July 1, 1997).

(902) "Regional Authority" means Lane Regional Air Pollution Authority.

(913) "Regulated air pollutant" or "Regulated Pollutant":

(a) ~~As used in OAR 340-028-0100 through 340-028-2320~~ Except as provided in subsection (b) of this rule means:

(A) Nitrogen oxides or any VOCs;

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

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

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

(E) Any pollutant listed under OAR 340-032-0130244-0040 or OAR 340-032-5400244-0230.

(b) ~~As used in OAR 340-028-2400 through 340-028-2550 means PM₁₀, Sulfur Dioxide (SO₂), Oxides of Nitrogen (NO_x), Lead (Pb), VOC, and Carbon Monoxide (CO); and any other pollutant subject to a New Source Performance Standard (NSPS) such as Total Reduced Sulfur (TRS) from kraft pulp mills and Fluoride (F) from aluminum mills.~~

(be) ~~As used in OAR 340-028-2560 through 340-028-2740~~ division 220 means any regulated air pollutant as defined in 340-028-0110(78) subsection (a) of this rule except the following:

(A) Carbon monoxide;

(B) Any pollutant that is a regulated pollutant solely because it is a Class I or Class II substance subject to a standard promulgated under or established by Title VI of the Federal Clean Air Act; or

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 12(r) of the Federal Clean Air Act.

(924) "Renewal" means the process by which a permit is reissued at the end of its term.

(935) "Responsible official" means one of the following:

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

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

(B) The delegation of authority to such representative is approved in advance by the Department or Lane Regional Air Pollution Authority.

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

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

(d) For affected sources:

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

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

(946) "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions shall be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

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

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

(957) "Section 111" means that section of the FCAA that includes Standards of Performance for New Stationary Sources (NSPS).

(968) "Section 111(d)" means that subsection of the FCAA that requires states to submit plans to the EPA which establish standards of performance for existing sources and provides for the implementation and enforcement of such standards.

(979) "Section 112" means that section of the FCAA that contains regulations for Hazardous Air Pollutants (HAP).

(10098) "Section 112(b)" means that subsection of the FCAA that includes the list of hazardous air pollutants to be regulated.

(10199) "Section 112(d)" means that subsection of the FCAA that directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.

(1002) "Section 112(e)" means that subsection of the FCAA that directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.

(1013) "Section 112(r)(7)" means that subsection of the FCAA that requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.

(1024) "Section 114(a)(3)" means that subsection of the FCAA that requires enhanced monitoring and submission of compliance certifications for major sources.

(1035) "Section 129" means that section of the FCAA that requires the EPA to establish emission standards and other requirements for solid waste incineration units.

(1046) "Section 129(e)" means that subsection of the FCAA that requires solid waste incineration units to obtain Oregon Title V Operating Permits.

(1057) "Section 182(f)" means that subsection of the FCAA that requires states to include plan provisions in the State Implementation Plan for NO_x in ozone nonattainment areas.

(1068) "Section 182(f)(1)" means that subsection of the FCAA that requires states to apply those plan provisions developed for major VOC sources and major NO_x sources in ozone nonattainment areas.

(1079) "Section 183(e)" means that subsection of the FCAA that requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.

(10840) "Section 183(f)" means that subsection of the FCAA that requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.

(10914) "Section 184" means that section of the FCAA that contains regulations for the control of interstate ozone air pollution.

(1102) "Section 302" means that section of the FCAA that contains definitions for general and administrative purposes in the Act.

(1113) "Section 302(j)" means that subsection of the FCAA that contains definitions of "major stationary source" and "major emitting facility."

(1124) "Section 328" means that section of the FCAA that contains regulations for air pollution from outer continental shelf activities.

(1135) "Section 408(a)" means that subsection of the FCAA that contains regulations for the Title IV permit program.

(1146) "Section 502(b)(10) change" means a change that contravenes an express permit term but is not a change that:

(a) Would violate applicable requirements;

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

(c) Is a Title I modification.

(1157) "Section 504(b)" means that subsection of the FCAA that states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.

(1168) "Section 504(e)" means that subsection of the FCAA that contains regulations for permit requirements for temporary sources.

(1179) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than those set out in **Table 1**. For sources of VOC or NO_x, a major source or major modification will be deemed to have a significant impact if it is located within 30 kilometers of an ozone nonattainment area or ozone maintenance area and is capable of impacting the nonattainment area or maintenance area.

(11824) "Significant emission rate", except as provided in subsections (a) through (c) of this section, means emission rates equal to or greater than the rates specified in **Table 2**.

(a) For the Medford-Ashland Air Quality Maintenance Area the Significant Emission Rate for PM₁₀ is defined in **Table 3**.

(b) For regulated air pollutants not listed in Table 2 or 3, the Department shall determine the rate that constitutes a significant emission rate.

(c) Any new source or modification with an emissions increase less than the rates specified in Table 2 or 3 associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m³ (24 hour average) shall be deemed to be emitting at a significant emission rate.

(11924) "Significant Impairment" occurs when visibility impairment in the judgment of the Department interferes with the management, protection, preservation, or enjoyment of the visual experience of visitors within a Class I area. The determination shall be made on a case-by-case basis considering the recommendations of the Federal Land Manager; the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(1202) "Small Source" means any stationary source with a regular ACDP (not an insignificant discharge permit, a minimal source permit or a general ACDP) or an Oregon Title V Operating Permit which is not classified as a large source.

(1213) "Source":

(a) Except as provided in subsection (b) of this section, means any building, structure, facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and 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.

(b) As used in OAR ~~340-028-1900 through 340-028-2000~~ division 224, New Source Review, and the definitions of "BACT", "Commenced", "Construction", "Emission Limitation", "Emission Standard", "LAER", "Major Modification", "Major Source", "Potential to Emit", and "Secondary Emissions" as these terms are used for purposes of OAR ~~340-028-1900 through 340-028-2000~~ division 224, includes all pollutant emitting activities which belong to a single major industrial group (i.e., which have the same two-digit code) as described in the **Standard Industrial Classification Manual**, (U.S. Office of Management and Budget, 1987) or are supporting the major industrial group.

(1224) "Source category":

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

(b) As used in ~~OAR 340-028-2400 through 340-028-2550, Major Source Interim Emission Fees, and OAR 340-028-2560 through 340-028-2740~~ division 220, Oregon Title V Operating Permit Fees, means a group of major sources determined by the Department to be using similar raw materials and having equivalent process controls and pollution control equipment.

(1235) "Source Test" means the average of at least three test runs during operating conditions representative of the period for which emissions are to be determined, conducted in accordance with the Department's Source Sampling Manual or other Department approved methods.

(1246) "Startup" and "shutdown" means that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively.

(1257) "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the Commission under ~~OAR 340-020-0047200-0040~~ and approved by EPA.

(1268) "Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant.

(1279) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.

(12830) "Synthetic minor source" means a source which would be classified as a major source under ~~OAR 340-028-0110200-0020~~, but for physical or operational limits on its potential to emit air pollutants contained in an ACDP issued by the Department under ~~OAR 340-028-1700 through 340-028-1790~~ division 216.

(12934) "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:

- (a) A major modification subject to ~~OAR 340-028-1930224-0050~~, Requirements for Sources in Nonattainment Areas;
- (b) A major modification subject to ~~OAR 340-028-1935224-0060~~, Requirements for Sources in Maintenance Areas;
- (c) A major modification subject to ~~OAR 340-028-1940224-0070~~, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas;
- (d) A change which is subject to a New Source Performance Standard under Section 111 of the FCAA; or
- (e) A modification under Section 112 of the FCAA.

(1302) "Total Suspended Particulate" or "TSP" means particulate matter as measured by the reference method described in **40 CFR Part 50, Appendix B** (July 1, 1997).

(1313) "Total Reduced Sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H₂S).

(1324) "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit in accordance with ~~OAR 340-028-0630226-0130~~. For existing sources, the emission limit established shall be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established shall be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. TACT determinations shall be based on information known to the Department considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control equipment. The Department may consider emission control technologies typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required.

(1335) "Unavoidable" or "could not be avoided" means events which are not caused entirely or in part by poor or inadequate design, operation, maintenance, or any other preventable condition in either process or control equipment.

(1346) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment which may cause an excess emission.

(1357) "Verified Emission Factor" means an emission factor approved by the Department and developed for a specific major source or source category and approved for application to that major source by the Department.

(1368) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which would have existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

(1379) "Volatile Organic Compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

(a) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform);

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); Trichloro-fluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (HCFC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropenta-fluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); HCFC 225ca and cb; HFC 43-10mee; pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene; and perfluorocarbon compounds which fall into these classes:

- (A) Cyclic, branched, or linear, completely fluorinated alkanes;
- (B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (D) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in accordance with the Department's Source Sampling Manual, January, 1992. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds, as listed in subsection (a), may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the Department.

(c) As a precondition to excluding these compounds, as listed in subsection (a), as VOC or at any time thereafter, the Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Department, the amount of negligibly-reactive compounds in the source's emissions.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040. Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033(4); DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989, f. & cert. ef. 6-26-89; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0145, 340-020-0225, 340-020-0305, 340-020-0355, 340-020-0460 & 340-020-0520; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993 (Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. ; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 1-1999, f. & cert. ef. 1-25-99; renumbered from OAR 340-028-0110.

340-020-0003200-0030

Exceptions

Except as provided in ORS 468A.020 and this rule, OAR Chapter 340, Divisions 200 through 34-268 do not apply to:

(1) Agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, except for field burning regulated pursuant to OAR Chapter 340, Division 266.

(2) Use of equipment in agricultural operations in the growth of crops or the raising of fowls or animals, except for field burning regulated pursuant to OAR Chapter 340, Division 266.

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

(4) Agricultural land clearing operations or land grading.

(5) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families, except woodstoves regulated pursuant to OAR Chapter 340, Division 34262.

(6) Fires set or permitted by any public officer, board, council or commission when such fire is set or permission given in the performance of such duty of the officer for the purpose of weed abatement, the prevention or elimination of a fire hazard, or the instruction of employees in the methods of fire fighting, which is in the opinion of such officer necessary, or from fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.

(7) The propagation and raising of nursery stock, except boilers used in connection with the propagation and raising of nursery stock.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-020-0003.

340-020-0047200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal **Clean Air Act**, Public Law 88-206 as last amended by Public Law 101-549.

(2) Except as provided in section (3) of this rule, revisions to the SIP shall be made pursuant to the Commission's rulemaking procedures in Division 11 of this Chapter and any other requirements contained in the SIP and shall be submitted to the United States Environmental Protection Agency for approval.

(3) Notwithstanding any other requirement contained in the SIP, the Department is authorized:

(a) To submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after the Department has complied with the public hearings provisions of **40 CFR 51.102 (July 1, 1992)**; and

(b) To approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

[NOTE: Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, the Department shall enforce the more stringent provision.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stat. Implemented: ORS 468A.035

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996(Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-28-99; DEQ 2-1999, f. & cert. ef. 3-25-99; renumbered from OAR 340-020-0047.

340-028-0700200-0050

Compliance Schedules

(1) The Department shall attempt to encourage voluntary cooperation of all persons responsible for an air contamination source, as defined by ORS 468A.005(4). To facilitate this cooperation and provide for a progressive program of air pollution control, the Department may negotiate with such persons a schedule of compliance. The schedule will set forth the dates and terms and conditions by which the person responsible for an air contamination source shall comply with applicable air quality rules or statutes:

(a) The schedule may be in lieu of a hearing and shall be in writing and signed by the Director of the Department or his designated officer and an authorized agent of the person responsible for the air contamination source. After the schedule is executed by both parties, it shall be confirmed by order of the Department;

(b) Compliance schedules providing for final compliance at a date later than 18 months from the date of execution shall contain requirements for periodic reporting and increments of progress toward compliance, at intervals of less than 18 months;

(c) No compliance schedule shall allow emissions on a permanent basis in excess of applicable standards and rules.

(2) In the event a negotiated schedule of compliance cannot be established, the Department may set a show cause hearing as provided by ORS 468.090 at a date and time designated as to why an order implementing a schedule proposed by the Department should not be adopted, or take such other authorized action as may be warranted.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0032;

DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-0700.

Conflicts of Interest

340-020-0200-200-0100

Purpose

The purpose of OAR ~~340-020-0200-200-0100~~ through ~~340-020-0215-200-0120~~ is to comply with the requirements of Section 128 of the federal Clean Air Act as amended August, 1977 (Public Law 95-95) (herein-after called "Clean Air Act"), regarding public interest representation by a majority of the members of the Commission and by the Director and disclosure by them of potential conflicts of interest.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.310

Hist.: DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-020-0200.

340-020-0210-200-0110

Public Interest Representation

At least a majority of the members of the Commission and the Director shall represent the public interest and shall not derive any significant portion of their respective incomes directly from persons subject in Oregon to permits or enforcement orders under the Clean Air Act.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.310

Hist.: DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-020-0210

340-020-0215-200-0120

Disclosure of Potential Conflicts of Interest

Each member of the Commission and the Director shall disclose any potential conflict of interest.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.310

Hist.: DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-020-0215

TABLE 1	
OAR 340-028-0110-200-0020	
SIGNIFICANT AMBIENT AIR QUALITY IMPACT WHICH IS EQUAL TO OR GREATER THAN:	
<i>Pollutant</i>	<i>Pollutant Averaging Time</i>

	<i>Annual</i>	<i>24-Hour</i>	<i>8-Hour</i>	<i>3-Hour</i>	<i>1-Hour</i>
SO ₂	1.0 µg/m ³	5 µg/m ³		25 µg/m ³	
TSP or PM ₁₀	0.2 µg/m ³	1.0 µg/m ³			
NO ₂	1.0 µg/m ³				
CO			0.5 mg/m ³		2 mg/m ³

TABLE 2 OAR 340-028-0110200-0020 SIGNIFICANT EMISSION RATES FOR POLLUTANTS REGULATED UNDER THE CLEAN AIR ACT		
	<i>Significant Pollutant</i>	<i>Emission Rate</i>
(A)	Carbon Monoxide	100 tons/year
(B)	Nitrogen Oxides (NO _x)	40 tons/year
(C)	Particulate Matter	25 tons/year
(D)	PM ₁₀	15 tons/year
(E)	Sulfur Dioxide	40 tons/year
(F)	Volatile Organic Compounds (VOC)	40 tons/year
(G)	Lead	0.6 ton/year
(H)	Mercury	0.1 ton/year
(I)	Beryllium	0.0004 ton/year
(J)	Asbestos	0.007 ton/year
(K)	Vinyl Chloride	1 ton/year
(L)	Fluorides	3 tons/year
(M)	Sulfuric Acid Mist	7 tons/year
(N)	Hydrogen Sulfide	10 tons/year
(O)	Total Reduced Sulfur (including hydrogen sulfide)	10 tons/year
(P)	Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year
(Q)	Municipal waste combustor organics (measured as total tetra-through octa- chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035 ton/year
(R)	Municipal waste combustor metals (measured as particulate matter)	15 tons/year
(S)	Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40 tons/year
(T)	Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tons/year

Table 3 OAR 340-028-0110200-0020 SIGNIFICANT EMISSION RATES FOR THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA			
<i>Air Contaminant</i>	<i>Emission Rate</i>		
	<i>Annual</i>	<i>Day</i>	<i>Hour</i>

Table 3
OAR 340-028-0110200-0020
SIGNIFICANT EMISSION RATES FOR THE MEDFORD-ASHLAND AIR
QUALITY MAINTENANCE AREA

<i>Air Contaminant</i>	<i>Emission Rate</i>		
	<i>Annual</i>	<i>Day</i>	<i>Hour</i>
PM ₁₀	4,500 Kilograms (5.0 tons)	23 Kilograms (50.0 lbs.)	4.6 Kilograms (10.0 lbs.)

DIVISION 31

AIR POLLUTION CONTROL STANDARDS FOR AIR PURITY AND QUALITY

DIVISION 202

AMBIENT AIR QUALITY STANDARDS AND PSD INCREMENTS

Ambient Air Quality Standards

[ED. NOTE: Administrative Order DEQ 37 repealed previous OAR 340-031-0005 through 340-031-0020 (DEQ 5 and 6).]

340-031-0005202-0010

Definitions

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

(1) "Ambient Air" means that portion of the atmosphere which surrounds the earth and is used for respiration by plants or animals including people, but excluding the general volume of gases contained within any building or structure.

(2) "Ambient Air Monitoring Site Criteria" means the general probe siting specifications as set forth in **Appendix E of 40 CFR 58**.

(3) "Approved Method" means an analytical method for measuring air contaminant concentrations which are described or referenced in **40 CFR 50** and Appendices. These methods are approved by the Department of Environmental Quality.

(4) "Baseline Concentration" means:

(a) Except as provided in subsection (c) of this section, the ambient concentration level for sulfur dioxide and PM₁₀ which existed in an area during the calendar year 1978. If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for 1978. Actual emission increases or decreases occurring before January 1, 1978 shall be included in the baseline calculation, except that actual emission increases from any major source or major modification on which construction commenced after January 6, 1975 shall not be included in the baseline calculation;

(b) The ambient concentration level for nitrogen oxides which existed in an area during the calendar year 1988.

(c) For the area of northeastern Oregon within the boundaries of the Umatilla, Wallowa-Whitman, Ochoco, and Malheur National Forests, the ambient concentration level for PM₁₀ which existed during the calendar year 1993. The Department shall allow the use of a prior time period upon a determination by the Department that it is more representative of normal emissions.

(5) "CFR" means **Code of Federal Regulations**, which is published annually and updated daily by issues of the **Federal Register**. The CFR contains general and permanent rules promulgated by the executive departments and agencies of the federal government. References to the CFR are preceded by a "Title number" and followed by a "Part and Section number." For example: "**40 CFR 50.7**". The CFRs referenced in ~~OAR 340-031-005 through 340-031-0055~~this division are available for inspection at the Department of Environmental Quality.

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

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

(8) "Indian Reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(9) "Oregon Standard Method" means any method of sampling and analyzing for an air contaminant approved by the Department of Environmental Quality. Oregon standard methods are kept on file by the Department of Environmental Quality.

(10) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's **Source Sampling Manual (January 1992)**.

(11) "PM₁₀":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal ten micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's **Source Sampling Manual (January 1992)**;

(b) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured in accordance with **40 CFR, Part 50, Appendix J (July 1993)**.

(12) "PPM" means parts per million by volume. It is a dimensionless unit of measurement for gases which expresses the ratio of the volume of one component gas to the volume of the entire sample mixture of gases.

(13) "Total Suspended Particulate" or "TSP" means particulate matter as measured by the method described in **40 CFR, Part 50, Appendix B (July 1, 1993)**.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047-200-0040.]

[Publication: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 18-1979, f. & ef. 6-22-79; DEQ 25-1981, f. & ef. 9-8-81; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1993, f. & cert. ef. 11-4-93; Renumbered from 340-031-0105; DEQ 17-1995, f. & cert. ef. 7-12-95; renumbered from OAR 340-031-0005.

Ambient Air Quality Standards

340-031-0010202-0050

Purpose and Scope of Ambient Air Quality Standards

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

(2) Ambient air quality standards are not generally intended as a means of determining the acceptability or unacceptability of emissions from specific sources of air contamination. More commonly, measured ambient air quality in comparison with ambient air quality standards is used as a criteria for determining the adequacy or effectiveness of emission standards for the aggregate of sources in a general area. However, in the case of a source or sources which are deemed to be singularly responsible for ambient air quality standards being exceeded in a particular locality, the violation of said standards shall be due cause for imposing emission standards more stringent than those generally applied to the class of sources involved. Similarly, proposed construction of new sources or expansions of existing sources, which may prevent or interfere with the attainment and maintenance of ambient air quality standards, shall be due cause for issuance of an order prohibiting such proposed construction, pursuant to ORS 468A.055, ~~and OAR 340-020-0030210-0200 through 340-210-0220, and OAR 340-218-0190.~~

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-031-0010.

340-031-0015202-0060

Suspended Particulate Matter

Concentrations of suspended particulate matter in ambient air as measured by an approved method for total suspended particulate, (TSP), or by an approved method for the fraction of TSP which is equal to or less than ten microns in aerodynamic diameter, (PM₁₀), shall not exceed:

(1) 60 micrograms of TSP per cubic meter of air as an annual geometric mean for any calendar year at any site.

(2) 150 micrograms of TSP per cubic meter of air as a 24-hour average concentration more than once per year at any site.
(3) 50 micrograms of PM₁₀ per cubic meter of air as an annual arithmetic mean. This standard is attained when the expected annual arithmetic mean concentration, as determined in accordance with **Appendix K of 40 CFR 50** is less than or equal to 50 micrograms per cubic meter at any site.

(4) 150 micrograms of PM₁₀ per cubic meter of air as a 24-hour average concentration for any calendar day. This standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter as determined in accordance with **Appendix K of 40 CFR 50** is equal to or less than one at any site.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047-200-0040.]

[Publication: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-031-0015.

340-031-0020202-0070

Sulfur Dioxide

Concentrations of sulfur dioxide in ambient air as measured by an approved method shall not exceed:

- (1) 0.02 ppm as an annual arithmetic mean for any calendar year at any site.
- (2) 0.10 ppm as a 24-hour average concentration more than once per year at any site.
- (3) 0.50 ppm as a three-hour average concentration more than once per year at any site.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-031-0020.

340-031-0025202-0080

Carbon Monoxide

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

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-031-0025.

340-031-0030202-0090

Ozone

Concentrations of ozone in ambient air as measured by an approved method shall not exceed 0.12 ppm as a one-hour average concentration. This standard is attained when, at any site the expected number of days per calendar year with maximum hourly concentrations greater than 0.12 ppm is equal to or less than one as determined by the method of **Appendix H, 40 CFR 50**.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047-200-0040.]

[Publication: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 15-1979, f. & ef. 6-22-79; DEQ 7-1980, f. & ef. 3-5-80; DEQ 4-1982, f. & ef. 1-29-82; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-031-0030.

340-031-0040-202-0100

Nitrogen Dioxide

Concentrations of nitrogen dioxide in ambient air as measured by an approved method shall not exceed 0.053 ppm as an annual arithmetic mean at any site.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047-200-0040.~~]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-031-0040.

340-031-0045-202-0110

Particle Fallout

The particle fallout rate as measured by an Oregon standard method at a location approved by the Department of Environmental Quality shall not exceed:

- (1) 10 grams per square meter per month in an industrial area.
- (2) 5.0 grams per square meter per month in an industrial area if visual observations show a presence of wood waste or soot and the volatile fraction of the sample exceeds 70 percent.
- (3) 5.0 grams per square meter per month in residential and commercial areas.
- (4) 3.5 grams per square meter per month in residential and commercial areas if visual observations show the presence of wood waste or soot and the volatile fraction of the sample exceeds 70 percent.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); renumbered from OAR 340-031-0045.

340-031-0050-202-0120

Calcium Oxide (Lime Dust)

(1) Concentrations of calcium oxide present as total suspended particulate, TSP, as measured by an approved method at a location approved by the Department of Environmental Quality, shall not exceed 20 micrograms per cubic meter in residential and commercial areas.

(2) Concentrations of calcium oxide present as particle fallout as measured by an Oregon standard method at a location approved by the Department of Environmental Quality, shall not exceed 0.35 grams per square meter per month in residential and commercial areas.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); renumbered from OAR 340-031-0050.

340-031-0055-202-0130

Ambient Air Quality Standard for Lead

The lead concentration in ambient air as measured by an approved method shall not exceed 1.5 micrograms per cubic meter as an arithmetic average concentration of all samples collected at any site during any one calendar quarter.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047-200-0040.~~]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 85, f. 1-29-75, ef. 2-25-75; DEQ 1-1983, f. & ef. 1-21-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-031-0055.

Prevention of Significant Deterioration Increments

340-031-0100-202-0200

General

(1) The purpose of OAR ~~340-031-0100~~202-0200 through ~~340-031-0130~~202-0220 is to implement a program to prevent significant deterioration of air quality in the State of Oregon as required by the federal Clean Air Act Amendments of 1977.

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047-200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 18-1979, f. & ef. 6-22-79; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-031-0100.

340-031-0110202-0210

Ambient Air Increments

(1) This rule defines significant deterioration. In areas designated as Class I, II or III, emissions from new or modified sources shall be limited such that increases in pollutant concentration over the baseline concentration shall be limited to those set out in **Table 1**.

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047-200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 18-1979, f. & ef. 6-22-79; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 17-1995, f. & cert. ef. 7-12-95; renumbered from OAR 340-031-0110.

40-031-0115202-0220

Ambient Air Ceilings

No concentration of a pollutant shall exceed:

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

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

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047-200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 18-1979, f. & ef. 6-22-79; renumbered from OAR 340-031-0115.

TABLE 1
(OAR ~~340-031-0110~~202-0210)
MAXIMUM ALLOWABLE INCREASE
Micrograms per cubic meter
CLASS I

POLLUTANT	Micrograms per cubic meter
Particulate matter:	
PM10, Annual arithmetic mean	4
PM10, 24-hour maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
24-hour maximum	5
3-hour maximum	25

Nitrogen dioxide: Annual arithmetic mean	2.5
---	-----

CLASS II

POLLUTANT	Micrograms per cubic meter
Particulate matter: PM10, Annual arithmetic mean	17
PM10, 24-hour maximum	30
Sulfur dioxide: Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
Nitrogen dioxide: Annual arithmetic mean	25

CLASS III

POLLUTANT	Micrograms per cubic meter
Particulate matter: PM10, Annual arithmetic mean	34
PM10, 24-hour maximum	60
Sulfur dioxide: Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700
Nitrogen dioxide: Annual arithmetic mean	50

DIVISION 204

DESIGNATION OF AIR QUALITY AREAS

~~The Air Quality Control Regions and Nonattainment and Maintenance Areas of Oregon~~

340-031-0500204-0010

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division. Definitions of boundaries in this rule also apply to OAR 340 Division 200 through 268 and throughout the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-200-0040. As used throughout the State Implementation Plan (SIP) and as specifically referenced in OAR 340, Divisions 20, 21, 22, 25, 28, 30, 31, and 34 and in Section 4 of the SIP:

- (1) "AQCR" means Air Quality Control Region.
- (2) "AQMA" means Air Quality Maintenance Area.
- (3) "CO" means Carbon Monoxide.
- (4) "CBD" means Central Business District.
- (5) "Criteria Pollutant" means any of the six pollutants set out by the Clean Air Act (sulfur oxides, particulate matter, ozone, carbon monoxide, nitrogen dioxide, and lead) for which the EPA has promulgated standards in **40 CFR 50.4** through 50.12 (July, 1993).
- (6) "Eugene-Springfield UGA" means the area within the bounds beginning at the Willamette River at a point due east from the intersection of East Beacon Road and River Loop No.1; thence southerly along the Willamette River to the intersection with Belt Line Road; thence easterly along Belt Line Road approximately one-half mile to the intersection with Delta Highway; thence northwesterly and then northerly along Delta Highway and on a line north from the Delta Highway to the intersection with the McKenzie River; thence generally southerly and easterly along the McKenzie River approximately eleven miles to the intersection with Marcola Road; thence southwesterly along Marcola Road to the intersection with 42nd Street; thence southerly along 42nd Street to the intersection with the northern branch of US Highway 126; thence easterly along US Highway 126 to the intersection with 52nd Street; thence north along 52nd Street to the intersection with High Banks Road; thence easterly along High Banks Road to the intersection with 58th Street; thence south along 58th Street to the intersection with Thurston Road; thence easterly along Thurston Road to the intersection with the western boundary of Section 36, T17S, R2W; thence south to the southwest corner of Section 36, T17S, R2W; thence west to the Springfield City Limits; thence following the Springfield City Limits southwesterly to the intersection with the western boundary of Section 2, T18S, R2W; thence on a line southwest to the Private Logging Road approximately one-half mile away; thence southeasterly along the Private Logging Road to the intersection with Wallace Creek; thence southwesterly along Wallace Creek to the confluence with the Middle Fork of the Willamette River; thence generally northwesterly along the Middle Fork of the Willamette River approximately seven and one-half miles to the intersection with the northern boundary of Section 11, T18S, R3W; thence west to the northwest corner of Section 10, T18S, R3W; thence south to the intersection with 30th Avenue; thence westerly along 30th Avenue to the intersection with the Eugene City Limits; thence following the Eugene City Limits first southerly then westerly then northerly and finally westerly to the intersection with the northern boundary of Section 5, T18S, R4W; thence west to the intersection with Greenhill Road; thence north along Greenhill Road to the intersection with Barger Drive; thence east along Barger Drive to the intersection with the Eugene City Limits (Ohio Street); thence following the Eugene City Limits first north then east then north then east then south then east to the intersection with Jansen Drive; thence east along Jansen Drive to the intersection with Belt Line Road; thence northeasterly along Belt Line Road to the intersection with Highway 99; thence northwesterly along Highway 99 to the intersection with Clear Lake Road; thence west along Clear Lake Road to the intersection with the western boundary of Section 9, T17S, R4W; thence north to the intersection with Airport Road; thence east along Airport Road to the intersection with Highway 99; thence northwesterly along Highway 99 to the intersection East Enid Road; thence east along East Enid Road to the intersection with Prairie Road; thence southerly along Prairie Road to the intersection with Irvington Road; thence east along Irvington Road to the intersection with the Southern Pacific Railroad Line; thence southeasterly along the Southern Pacific Railroad Line to the intersection with Irving Road; thence east along Irving Road to the intersection with Kalmia Road; thence northerly along Kalmia Road to the intersection with Hyacinth Road; thence northerly along Hyacinth Road to the intersection with

Irvington Road; thence east along Irvington Road to the intersection with Spring Creek; thence northerly along Spring Creek to the intersection with River Road; thence northerly along River Road to the intersection with East Beacon Drive; thence following East Beacon Drive first east then south then east to the intersection with River Loop No.1; thence on a line due east to the Willamette River and the point of beginning.

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

340-022-0470(28) ~~As used in this section, the Grants Pass eControl a~~Area means the area of the state beginning at the northeast corner of Section 35, T35S, R5W; thence south to the southeast corner of Section 11, T37S, R5W; thence west to the southwest corner of Section 9, T37S, R6W; thence north to the northwest corner of Section 33, T35S, R6W; thence east to the point of beginning.

(89) "Grants Pass UGB" as shown on the Plan and Zoning maps for the City of Grants Pass as of Feb. 1, 1988 is the area within the bounds beginning at the NW corner of Sec. 7, T36S, R5W; thence south to the SW corner of Sec. 7; thence west along the southern boundary of Sec. 12, T36S, R5W approx. 2000 feet; thence south approx. 100 feet to the northern right of way of the Southern Pacific Railroad Line (SPRR Line); thence southeasterly along said right of way approx. 800 feet; thence south approx. 400 feet; thence west approx. 1100 feet; thence south approx. 700 feet to the intersection with the Hillside Canal; thence west approx. 100 feet; thence south approx. 550 feet to the intersection with Upper River Road; thence southeasterly along Upper River Road and continuing east along Old Upper River Road approx. 700 feet; thence south approx. 1550 feet; thence west approx. 350 feet; thence south approx. 250 feet; thence west approx. 1000 feet; thence south approx. 600 feet to the north end of Roguela Lane; thence east approx. 400 feet; thence south approx. 1400 feet to the intersection with Lower River Road; thence west along Lower River Road approx. 1400 feet; thence south approx. 1350 feet; thence west approx. 25 feet; thence south approx. 1200 feet to the south bank of the Rogue River; thence northwesterly along said bank approx. 2800 feet; thence on a line southwesterly and parallel to Parkhill Place approx. 600 feet; thence northwesterly at a 90 degree angle approximately 300 feet to the intersection with Parkhill Place; thence southwesterly along Parkhill Place approx. 250 feet; thence on a line southeasterly forming a 90 degree angle approximately 300 feet to a point even with Leonard Road; thence west approx. 1500 feet along Leonard Road; thence north approx. 200 feet; thence west to the west side of Schroeder Lane; thence north approx. 150 feet; thence west approx. 200 feet; thence south to the intersection with Leonard Road; thence west along Leonard Road approx. 450 feet; thence north approx. 300 feet; thence east approx. 150 feet; thence north approx. 400 feet; thence west approx. 500 feet; thence south approx. 300 feet; thence west to the intersection with Coutant Lane; thence south along Coutant Lane to the intersection with Leonard Road; thence west along Leonard Road to the intersection with Buena Vista Lane; thence north along the west side of Buena Vista Lane approx. 200 feet; thence west approx. 150 feet; thence north approx. 150 feet; thence west approx. 200 feet; thence north approx. 400 feet; thence west approx. 600 feet to the intersection with the western boundary of Sec. 23, T36S, R6W; thence south to the intersection with Leonard Road; thence west along Leonard Road approx. 300 feet; thence north approx. 600 feet to the intersection with Darneille Lane; thence northwesterly along Darneille Lane approx. 200 feet; thence west approx. 300 feet; thence south approx. 600 feet to the intersection with Leonard Road; thence west along Leonard Road approx. 700 feet; thence south approx. 1350 feet; thence east approx. 1400 feet to the intersection with Darneille Lane; thence south along Darneille Lane approx. 600 feet; thence west approx. 300 feet; thence south to the intersection with Redwood Avenue; thence east along Redwood Avenue to the intersection with Hubbard Lane and the western boundary of Sec. 23, T36S, R6W; thence south along Hubbard Lane approx. 1850 feet; thence west approx. 1350 feet ; thence south to the south side of U.S. Highway 199; thence westerly along U.S. 199 approx. 1600 feet to the intersection with the north-south midpoint of Sec. 27, T36S, R6W; thence south approx. 2200 feet; thence east approx. 1400 feet; thence north approx. 1000 feet; thence east approx. 300 feet; thence north approx. 250 feet to the intersection with the Highline Canal; thence northerly along the Highline Canal approx. 900 feet; thence east to the intersection with Hubbard Lane; thence north along Hubbard Lane approximately 600 feet; thence east approx. 200 feet; thence north approx. 400 feet to a point even with Canal Avenue; thence east approx. 550 feet; thence north to the south side of U.S. 199; thence easterly along the southern edge of U.S. 199 to the intersection with Willow Lane; thence south along Willow Lane to the intersection with Demaray Drive; thence easterly along Demaray Drive and continuing along the southern edge of U.S. 199 to the intersection with Dowell Road; thence south along Dowell Road approx. 550 feet; thence easterly approx. 750 feet; thence north to the intersection with the South Canal; thence easterly along the South Canal to the intersection with Schutzwohl Lane; thence south approx. 1300 feet to a point even with West Harbeck Road; thence east approx. 2000 feet to the intersection with Allen Creek; thence southerly along Allen Creek approx. 1400 feet to a point even with Denton Trail to the west; thence west to the intersection with Highline Canal; thence southerly along Highline Canal to the intersection with the southern boundary of Sec. 25, T36S, R6W; thence east to the intersection with

Allen Creek; thence southerly along Allen Creek to the intersection with the western boundary of Sec. 31, T36S, R5W; thence south to the SW corner of Sec. 31; thence east to the intersection with Williams Highway; thence southeasterly along Williams Highway approx. 1300 feet; thence east approx. 200 feet; thence north approx. 400 feet; thence east approx. 700 feet; thence north to the intersection with Espey Road; thence west along Espey Road approx. 150 feet; thence north approx. 600 feet; thence east approx. 300 feet; thence north approx. 2000 feet; thence west approx. 2100 feet; thence north approx. 1350 feet; thence east approx. 800 feet; thence north approx. 2800 feet to the east-west midline of Sec. 30, T36S, R5W; thence on a line due NE approx. 600 feet; thence north approx. 100 feet; thence east approx. 600 feet; thence north approx. 100 feet to the intersection with Highline Canal; thence easterly along Highline Canal approx. 1300 feet; thence south approx. 100 feet; thence east to the intersection with Harbeck Road; thence north along Harbeck Road to the intersection with Highline Canal; thence easterly along Highline Canal to a point approx. 250 feet beyond Skyway Road; thence south to the intersection with Skyway Road; thence east to the intersection with Highline Canal; thence southeasterly along Highline Canal approx. 1200 feet; thence on a line due SW to the intersection with Bluebell Lane; thence southerly along Bluebell Lane approx. 150 feet; thence east to the intersection with Sky Crest Drive; thence southerly along Sky Crest Drive to the intersection with Harper Loop; thence southeasterly along Harper Loop to the intersection with the east-west midline of Sec. 29, T36S, R5W; thence east approx. 400 feet; thence south approx. 1300 feet to a point even with Troll View Road to the east; thence east to the intersection with Hamilton Lane; thence north along Hamilton Lane to the intersection with the Highline Canal; thence northeasterly along the Highline Canal to the northern boundary of Sec. 28, T36S, R5W; thence east approx. 1350 feet to the transmission line; thence north to the intersection with Fruitdale Drive; thence southwesterly along Fruitdale Drive approx. 700 feet; thence north to the northern edge of U.S. 199; thence easterly along the northern edge of U.S. 199 approx. 50 feet; thence north to the north bank of the Rogue River; thence northeasterly along the north bank of the Rogue River approx. 2100 feet to a point even with Ament Road; thence north to Ament Road and following Ament Road to U.S. Interstate Highway 5 (U.S. I-5); thence continuing north to the 1200 foot contour line; thence following the 1200 foot contour line northwesterly approx. 7100 feet to the city limits and a point even with Savage Street to the west; thence north following the city limits approx. 400 feet; thence west to the intersection with Beacon Street; thence north along Beacon Street and the city limits approx. 250 feet; thence east along the city limits approx. 700 feet; thence north along the city limits approx. 2200 feet; thence southwesterly along the city limits approximately 800 feet to the intersection with the 1400 foot contour line; thence northerly and northwesterly along the 1400 foot contour line approx. 900 feet to the intersection with the northern boundary of Sec. 9, T36S, R5W; thence west along said boundary approx. 100 feet to the NW corner of Sec. 9; thence south along the western boundary of Sec. 9 approx. 700 feet; thence west approx. 1400 feet; thence north approx. 2400 feet; thence west approx. 1350 feet; thence north approx. 1100 feet to the city limits; thence following the city limits first west approx. 1550 feet, then south approx. 800 feet, then west approx. 200 feet, then south approx. 200 feet, then east approx. 200 feet, then south approx. 300 feet, and finally westerly approx. 1200 feet to the intersection with the western boundary of Sec. 5, T36S, R5W; thence south along said boundary to the northern side of Vine Avenue; thence northwesterly along the northern side of Vine Avenue approx. 3150 feet to the intersection with the west fork of Gilbert Creek; thence north to the intersection with the southern right of way of U.S. I-5; thence northwesterly along said right of way approx. 1600 feet; thence south to the intersection with Old Highland Avenue; thence northwesterly along Highland Avenue approx. 650 feet; thence west approx. 350 feet; thence south approx. 1400 feet; thence east approx. 700 feet; thence south approx. 1000 feet; thence on a line SW approx. 800 feet; thence south approx. 1400 feet to the intersection with the northern boundary of Sec. 7, T36S, R5W; thence west to the NW corner of Sec. 7, the point of beginning.

~~340-022-0470(310)~~ As used in this subsection, the Klamath Falls eControl eArea means the area of the state beginning at the northeast corner of Section 8, T38S, R10E, thence south to the southeast corner of Section 5, T40S, R10E; thence west to the southwest corner of Section 3, T40S, R8E; thence north to the northwest corner of Section 10, T38S, R8E; thence east to the point of beginning.

(911) "Klamath Falls UGB" means the area within the bounds beginning at the southeast corner of Section 36, Township 38 South, Range 9 East; thence northerly approximately 4500 feet; thence westerly approximately 1/4 mile; thence northerly approximately 3/4 mile into Section 25, T38S, R9E; thence westerly approximately 1/4 mile; thence northerly approximately 1/2 mile to the southern boundary of Section 24, T38S, R9E; thence westerly approximately 1/2 mile to the southeast corner of Section 23, T38S, R9E; thence northerly approximately 1/2 mile; thence westerly approximately 1/4 mile; thence northerly approximately 1/2 mile to the southern boundary of Section 14, T38S, R9E; thence generally northwesterly along the 5000 foot elevation contour line approximately 3/4 mile; thence westerly 1 mile; thence north to the intersection with the northern boundary of Section 15, T38S, R9E; thence west 1/4 mile along the northern boundary of Section 15, T38S, R9E; thence generally southeasterly following the 4800 foot elevation contour line around the old Oregon Institute of Technology Campus

to meet with the westerly line of Old Fort Road in Section 22, T38S, R9E; thence southwesterly along the westerly line of Old Fort Road approximately 1 and 1/4 miles to Section 27, T38S, R9E; thence west approximately 1/4 mile; thence southwesterly approximately 1/2 mile to the intersection with Section 27, T38S, R9E; thence westerly approximately 1/2 mile to intersect with the Klamath Falls City Limits at the northerly line of Loma Linda Drive in Section 28, T38S, R9E; thence northwesterly along Loma Linda Drive approximately 1/4 mile; thence southwesterly approximately 1/8 mile to the Klamath Falls City Limits; thence northerly along the Klamath Falls City Limits approximately 1 mile into Section 21, T38S, R9E; thence westerly approximately 1/4 mile; thence northerly approximately 1 mile into Section 17, T38S, R9E; thence westerly approximately 3/4 mile into Section 17, T38S, R9E; thence northerly approximately 1/4 mile; thence westerly approximately 1 mile to the west boundary of Highway 97 in Section 18, T38S, R9E; thence southeasterly along the western boundary of Highway 97 approximately 1/2 mile; thence southwesterly away from Highway 97; thence southeasterly to the intersection with Klamath Falls City Limits at Front Street; thence westerly approximately 1/4 mile to the western boundary of Section 19, T38S, R9E; thence southerly approximately 1 and 1/4 miles along the western boundary of Section 19, T38S, R9E and the Klamath Falls City Limits to the south shore line of Klamath Lake; thence northwesterly along the south shore line of Klamath Lake approximately 1 and 1/4 miles across Section 25, T38S, R9E and Section 26, T38S, R9E; thence westerly approximately 1/2 mile along Section 26, T38S, R9E; thence southerly approximately 1/2 mile to Section 27, T38S, R9E to the intersection with eastern boundary of Orindale Draw, thence southerly along the eastern boundary of Orindale Draw approximately 1 and 1/4 miles into Section 35, T38S, R9E; thence southerly approximately 1/2 mile into Section 2, T39S, R8E; thence easterly approximately 1/4 mile; thence northerly approximately 1/4 mile to the southeast corner of Section 35, T38S, R8E and the Klamath Falls City Limits; thence easterly approximately 1/2 mile to the northern boundary of Section 1, T38S, R8E; thence southeasterly approximately 1/2 mile to Orindale Road; thence north 500 feet along the west side of an easement; thence easterly approximately 1 and 1/4 miles through Section 1, T38S, R8E to the western boundary of Section 6, T39S, R9E; thence southerly approximately 3/4 mile to the southwest corner of Section 6, T39S, R9E; thence easterly approximately 1/8 mile to the western boundary of Highway 97; thence southwesterly along the Highway 97 right-of-way approximately 1/4 mile; thence westerly approximately 1/2 mile to Agate Street in Section 7, T39S, R8E; thence northerly approximately 1/4 mile; thence westerly approximately 3/4 mile to Orindale Road in Section 12, T39S, R8E; thence northerly approximately 1/4 mile into Section 1, T39S, R8E; thence westerly approximately 3/4 mile to the Section 2, T39S, R8E boundary line; thence southerly approximately 3/4 mile along the Section 2, T39S, R8E boundary line to the northwest corner of Section 12, T39S, R8E; thence westerly approximately 1/8 mile into Section 11, T39S, R8E; thence southerly approximately 1/8 mile; thence northeasterly approximately 3/4 mile to the southern boundary of Section 12, T39S, R8E at Balsam Drive; thence southerly approximately 1/4 mile into Section 12, T39S, R8E; thence easterly approximately 1/4 mile to Orindale Road; thence southeasterly approximately 500 feet to Highway 66; thence southwesterly approximately 1/2 mile along the boundary of Highway 66 to Holiday Road; thence southerly approximately 1/2 mile into Section 13, T39S, R8E; thence northeasterly approximately 1/4 mile to the eastern boundary of Section 13, T39S, R8E; thence northerly approximately 1/4 mile along the eastern boundary of Section 13, T39S, R8E; thence westerly approximately 1/4 mile to Weyerhaeuser Road; thence northerly approximately 1/8 mile; thence easterly approximately 1/8 mile; thence northerly approximately 1/8 mile; thence westerly approximately 1/8 mile to Farrier Avenue; thence northerly approximately 1/4 mile; thence easterly approximately 1/4 mile to the eastern boundary of Section 13, T39S, R8E; thence northerly approximately 1/8 mile along the eastern boundary of Section 13, T39S, R8E; thence easterly approximately 1/4 mile along the northern section line of Section 18, T39S, R8E; thence southerly approximately 1/4 mile; thence easterly approximately 1/2 mile to the boundary of Highway 97; thence southerly approximately 1/3 mile to the Burlington Northern Right-of-Way; thence northeasterly approximately 1 and 1/3 miles along the high water line of the Klamath River to the Southside Bypass in Section 8, T39S, R9E; thence southeasterly along the Southside Bypass to the Southern Pacific Right-of-Way in Section 9, T39S, R9E; thence southerly approximately 1/2 mile along the Southern Pacific Right-of-Way; thence southwesterly approximately 1/4 mile along the Midland Highway; thence southeasterly approximately 1/4 mile to the old railroad spur; thence easterly 1/4 mile along the old railroad spur; thence southerly approximately 1/4 mile in Section 16, T39S, R9E; thence westerly approximately 1/3 mile; thence southerly approximately 1/4 mile; thence easterly approximately 1/16 mile in Section 21, T39S, R9E; thence southerly approximately 1/8 mile to the Lost River Diversion Channel; thence southeasterly approximately 1/4 mile along the northern boundary of the Lost River Diversion Channel; thence easterly approximately 3/4 mile along Joe Wright Road into Section 22, T39S, R9E; thence southeasterly approximately 1/8 mile on the eastern boundary of the Southern Pacific Right-of-Way; thence southeasterly approximately 1 mile along the western boundary of the Southern Pacific Right-of-Way across Section 22, T39S, R9E and Section 27, T39S, R9E to a point 440 yards south of the northern boundary of Section 27, T39S, R9E; thence easterly to Kingsley Field; thence southeasterly approximately 3/4 mile to the

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

(4012) "LaGrande UGB" means the area within the bounds beginning at the point where U.S. Interstate 84 (I-84) intersects Section 31, Township 2 South, Range 38 East; thence east along I-84 to the Union County Fairgrounds; thence north and then east on a line encompassing the Union County Fairgrounds to the intersection with Cedar Street; thence further east approximately 500 feet, encompassing two (2) residential properties; thence on a line south to the intersection with the northern bank of the Grande Ronde River; thence westerly along the northern bank of the Grande Ronde River to the intersection with the western edge of Mount Glenn Road and Riverside Park; thence north along the western edge of Mount Glenn Road and Riverside Park to the intersection with Fruitdale Road; thence east along Fruitdale Road and the northern boundary of Riverside Park to the eastern boundary of Riverside Park; thence south along the eastern boundary of Riverside Park to the north bank of the Grande Ronde River; thence on a line southeast to the intersection with the northern edge of I-84; thence easterly along the northern edge of I-84 to May Street; thence easterly along May Street to the intersection with State Highway 82; thence northeasterly along State Highway 82 to the a point approximately 1/4 mile from the eastern edge of Section 4, T3S, R38E; thence south to the intersection with Section 9, T3S, R38E, and the southern edge of Buchanan Avenue; thence west along the southern edge of Buchanan Avenue to the intersection with the northern edge of I-84; thence on a line south to the southern edge of I-84; thence southeasterly along the southern edge of I-84 approximately 2500 feet; thence on a line due west approximately 1400 feet; thence on a line due south to the intersection with the Union Pacific Railroad Line; thence southeasterly along the Union Pacific Railroad Line to the intersection with Gekeler Lane; thence west along Gekeler Lane to the intersection with U.S. Highway 30; thence southeast along U.S. Highway 30 to the intersection with the western boundary of Section 15, T3S, R38E; thence on a line west following existing property boundaries approximately 2900 feet; thence on a line north following existing property boundaries approximately 250 feet; thence on a line east following existing property boundaries approximately 650 feet; thence north on a line to the intersection with Gekeler Lane; thence west along Gekeler Lane to the intersection with 20th Avenue; thence south along 20th Avenue to the intersection with Foothill Road; thence southeasterly along Foothill Road approximately 2900 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line south following existing property boundaries approximately 1250 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line north following existing property boundaries approximately 450 feet to the intersection with the southernmost part of the La Grande City Limits; thence westerly and northwesterly along the southernmost part of the La Grande City Limits approximately 1100 feet to the intersection with the 3000 foot elevation contour line; thence westerly following the 3000 foot elevation contour line and existing property boundaries approximately 2200 feet; thence on a line north following existing property boundaries approximately 1900 feet; thence on a line west following existing property boundaries approximately 500 feet; thence on a line north to the La Grande City Limits; thence west along the La Grande City Limits and following existing property boundaries approximately 650 feet; thence on a line south following existing property boundaries approximately 900 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line north to the intersection with the La Grande City Limits; thence west along the southern boundary of the La Grande City Limits to the intersection with the western boundary of the La Grande City Limits; thence north along the western boundary of the La Grande City Limits and following existing property lines approximately 500 feet; thence on a line west following existing property boundaries approximately 200 feet; thence on a line north following existing property boundaries approximately 700 feet; thence east to the first 3000 foot elevation contour line west of the La Grande City Limits; thence northerly following

that 3000 foot elevation contour line to the intersection with Deal Canyon Road; thence easterly along Deal Canyon Road to the intersection with the western boundary of the La Grande City Limits; thence northerly along the western boundary of the La Grande City Limits to the intersection with U.S. Highway 30; thence northwesterly along U.S. Highway 30 and following existing property boundaries approximately 1400 feet; thence on a line west to the intersection with the western boundary of Section 6, T3S, R38E; thence north along the western boundaries of Section 6, T3S, R38E and Section 31, T2S, R38E to the point of beginning.

(4113) "Lakeview UGB" means the area beginning at the corner common to sections 21, 22, 27, and 28, T39S, R20E; thence north on the section line between section 21 and 22 to the section corner common to section 15, 16, 21, and 22; thence west along the section line between section 21 and 16 to the section corner common to sections 16, 17, 20, and 21; thence north along the section line between section 16 and 17 approximately 3550 feet to the east branch of Thomas Creek; thence northwesterly along the east branch of Thomas Creek to the center line of Highway 140; thence east along the center line of Highway 140 to the section corner common to sections 8, 9, 16, and 17, T39S, R20E; thence north along the section line between sections 8 and 9 to the section corner common to sections 4, 5, 8, and 9, T39S, R20E; thence north along the section line between section 4 and 5 to the section corner common to section 4 and 5, T39S, R20E and sections 32 and 33, T38S, R20E; thence east along the section line between sections 4 and 33 to the section corner common to sections 3 and 4, T39S, R20E and sections 33 and 34, T38S, R20E; thence south along the eastern boundary of section 4 approximately 4,1318.6 feet; thence S 89 degrees, 11 minutes W 288.28 feet to the east right of way line of the old Paisley/Lakeview Highway; thence S 21 degrees, 53 minutes E along the eastern right of way of the old Paisley/Lakeview Highway 288.4 feet; thence S 78 degrees, 45 minutes W 1375 feet; thence S 3 degrees, 6 minutes, and 30 seconds W 200 feet; thence S 77 degrees, 45 minutes W 136 feet to the east right of way line of U.S. Highway 395; thence southeasterly along the east right of way line of U.S. Highway 395 53.5 feet; thence N 77 degrees, 45 minutes E 195.6 feet; thence S 38 degrees, 45 minutes E 56.8 feet; thence S 51 degrees, 15 minutes W 186.1 feet to the east right of way of U.S. Highway 395; thence southeast along the eastern right of way line of U.S. Highway 395 2310 feet; thence N 76 degrees, 19 minutes 544.7 feet; thence S 13 degrees, 23 minutes, 21 seconds E 400 feet; thence N 63 degrees, 13 minutes E 243.6 feet to the western line of the old American Forest Products Logging Road; thence southeast along the old American Forest Products Logging Road to the western line of the northeast quadrant of the northwest quadrant of section 10, T39S, R20E; thence southeast to a point on the south line of the northeast quadrant of the northwest quadrant of Section 10, T39S, R20E (this point also bears N 89 degrees, 33 minutes E 230 feet from the center line of U.S. Highway 395); thence south on a line parallel to the east right of way line of U.S. Highway 395 to the south line of the northwest quadrant of section 10, T39S, R20E; thence south 491 feet to the east right of way of U.S. Highway 395; thence southeasterly following the east right of way of U.S. Highway 395 255 feet to the south line of the northeast quadrant of the southwest quadrant of section 10, T39S, R20E; thence east along that south line to the center line of section 10, T39S, R20E; thence continuing east along the same south line to the eastern boundary of section 10, T39S, R20E; thence south along the eastern boundary of section 10 to the section corner common to sections 10, 11, 14, and 15, T39S, R20E; thence south along the section line between section 14 and 15 to the section corner common to sections 14, 15, 22, and 23, T39S, R20E; thence west along the section line between sections 15 and 22 to the northwest corner of the northeast quadrant of the northeast quadrant of section 22, T39S, R20E; thence south along the eastern line of the western half of the eastern half of section 22 to the southern boundary of section 22, T39S, R20E; thence west along the southern boundary of section 22 to the point of beginning.

(4214) "Maintenance Area" means any area that was formerly nonattainment for a criteria pollutant but has since met EPA promulgated standards and has had a maintenance plan to stay within the standards approved by the EPA pursuant to **40 CFR 51.110** (July, 1993).

(4315) "Medford-Ashland AQMA" means the area defined as beginning at a point approximately one mile northeast of the town of Eagle Point, Jackson County, Oregon at the northeast corner of Section 36, Township 35 South, Range 1 West; thence southeast along the Willamette Meridian to the southeast corner of Section 25, Township 37 South, Range 1 West; thence southeast along a line to the southeast corner of Section 9, Township 39 South, Range 2 East; thence south-southeast to the corner of Section 27, Township 39 South, Range 2 East; thence southwest to the southeast corner of Section 33, Township 39 South, Range 2 East; thence west to the southwest corner of Section 31, Township 39 South, Range 2 East; thence northwest to the northwest corner of Section 36, Township 39 South, Range 1 East; thence west to the southwest corner of Section 26, Township 39 South, Range 1 East; thence northwest along a line to the southeast corner of Section 7, Township 39 South, Range 1 East; thence west to the southwest corner of Section 12, Township 39 South, Range 1 West; thence northwest along a line to the southwest corner of Section 20, Township 38 South, Range 1 West; thence west to the southwest corner of Section 24, Township 38 South, Range 2 West; thence northwest along a line to the southwest corner of Section 4, Township

38 South, Range 2 West; thence west to the southwest corner of Section 5, Township 38 South, Range 2 West; thence northwest along a line to the southwest corner of Section 31, Township 37 South, Range 2 West; thence north along a line to the Rouge River, thence north and east along the Rouge River to the north boundary of Section 32, Township 35 South, Range 1 West; thence east along a line to the point of beginning.

(4416) "Medford-Ashland CBD" means the area beginning at the intersection of Crater Lake Highway (Highway 62) south on Biddle Road to the intersection of Fourth Street, west on Fourth Street to the intersection with Riverside Avenue (Highway 99), south on Riverside Avenue to the intersection with Tenth Street, west on Tenth Street to the intersection with Oakdale Avenue, north on Oakdale Avenue to the intersection with Fourth Street, east on Fourth Street to the intersection with Central Avenue, north on Central Avenue to the intersection with Court Street, north on Court Street to the intersection with Crater Lake Highway (Highway 62) and east on Crater Lake Highway to the point of beginning, with extensions along McAndrews Road east from Biddle Road to Crater Lake Avenue, and along Jackson Street east from Biddle Road to Crater Lake Avenue.

NOTE: This definition also marks the area where indirect sources are required to have indirect source construction permits in the Medford area. See OAR 340-020-0115.

(4517) "Medford UGB" means the area beginning at the line separating Range 1 West and Range 2 West at a point approximately 1/4 mile south of the northwest corner of Section 31, T36S, R1W; thence west approximately 1/2 mile; thence south to the north bank of Bear Creek; thence west to the south bank of Bear Creek; thence south to the intersection with the Medford Corporate Boundary; thence following the Medford Corporate Boundary west and southwesterly to the intersection with Merriman Road; thence northwesterly along Merriman Road to the intersection with the eastern boundary of Section 10, T36S, R2W; thence south along said boundary line approximately 3/4 mile; thence west approximately 1/3 mile; thence south to the intersection with the Hopkins Canal; thence east along the Hopkins Canal approximately 200 feet; thence south to Rossanley Drive; thence east along Rossanley Drive approximately 200 feet; thence south approximately 1200 feet; thence west approximately 700 feet; thence south approximately 1400 feet; thence east approximately 1400 feet; thence north approximately 100 feet; thence east approximately 700 feet; thence south to Finley Lane; thence west to the end of Finley Lane; thence approximately 1200 feet; thence west approximately 1300 feet; thence north approximately 150 feet; thence west approximately 500 feet; thence south to Highway 238; thence west along Highway 238 approximately 250 feet; thence south approximately 1250 feet to a point even with the end of Renault Avenue to the east; thence east approximately 2200 feet; thence south approximately 1100 feet to a point even with Sunset Court to the east; thence east to and along Sunset Court to the first (nameless) road to the south; thence approximately 850 feet; thence west approximately 600 feet; thence south to Stewart Avenue; thence west along Stewart Avenue approximately 750 feet; thence south approximately 1100 feet; thence west approximately 100 feet; thence south approximately 800 feet; thence east approximately 800 feet; thence south approximately 1000 feet; thence west approximately 350 feet to a point even with the north-south connector street between Sunset Drive and South Stage Road; thence south to and along said connecting road and continuing along South Stage Road to Fairlane Road; thence south to the end of Fairlane Road and extending beyond it approximately 250 feet; thence east approximately 250 feet; thence south approximately 250 feet to the intersection with Judy Way; thence east on Judy Way to Griffin Creek Road; thence north on Griffin Creek Road to South Stage Road; thence east on South Stage Road to Orchard Home Drive; thence north on Orchard Home Drive approximately 800 feet; thence east to Columbus Avenue; thence south along Columbus Avenue to South Stage Road; thence east along South Stage Road to the first road to the north after Sunnyview Lane; thence north approximately 300 feet; thence east approximately 300 feet; thence north approximately 700 feet; thence east to King's Highway; thence north along King's Highway to Experiment Station Road; thence east along Experiment Station Road to Marsh Lane; thence east along Marsh Lane to the northern boundary of Section 6, T38S, R1W; thence east along said boundary approximately 1100 feet; thence north approximately 1200 feet; thence east approximately 1/3 mile; thence north approximately 400 feet; thence east approximately 1000 feet to a drainage ditch; thence following the drainage ditch southeasterly approximately 500 feet; thence east to the eastern boundary of Section 31, T37S, R1W; thence south along said boundary approximately 1900 feet; thence east to and along the loop off of Rogue Valley Boulevard, following that loop to the Southern Pacific Railroad Line (SPRR); thence following SPRR approximately 500 feet; thence south to South Stage Road; thence east along South Stage Road to SPRR; thence southeasterly along SPRR to the intersection with the west fork of Bear Creek; thence northeasterly along the west fork of Bear Creek to the intersection with U.S. Highway 99; thence southeasterly along U.S. Highway 99 approximately 250 feet; thence east approximately 1600 feet; thence south to East Glenwood Road; thence east along East Glenwood Road approximately 1250 feet; thence north approximately 1/2 mile; thence west approximately 250 feet; thence north approximately 1/2 mile to the Medford City Limits; thence east along the city limits to Phoenix Road; thence south along Phoenix Road to Coal Mine Road; thence east along

Coal Mine Road approximately 9/10 mile to the western boundary of Section 35, T37S, R1W; thence north to the midpoint of the western boundary of Section 35, T37S, R1W; thence west approximately 800 feet; thence north approximately 1700 feet to the intersection with Barnett Road; thence easterly along Barnett Road to the southeast corner of Section 27, T37S, R1W; thence north along the eastern boundary line of said section approximately 1/2 mile to the intersection with the 1800 foot contour line; thence east to the intersection with Cherry Lane; thence following Cherry Lane southeasterly and then northerly to the intersection with Hillcrest Road; thence east along Hillcrest Road to the southeast corner of Section 23, T37S, R1W; thence north to the northeast corner of Section 23, T37S, R1W; thence west to the midpoint of the northern boundary of Section 22; T37S, R1W; thence north to the midpoint of Section 15, T37S, R1W; thence west to the midpoint of the western boundary of Section 15, T37S, R1W; thence south along said boundary approximately 600 feet; thence west approximately 1200 feet; thence north approximately 600 feet; thence west to Foothill Road; thence north along Foothill Road to a point approximately 500 feet north of Butte Road; thence west approximately 300 feet; thence south approximately 250 feet; thence west on a line parallel to and approximately 250 feet north of Butte Road to the eastern boundary of Section 8, T37S, R1W; thence north approximately 2200 feet; thence west approximately 1800 feet; thence north approximately 2000 feet; thence west approximately 500 feet; thence north to Coker Butte Road; thence east along Coker Butte Road approximately 550 feet; thence north approximately 1250 feet; thence west to U.S. Highway 62; thence north approximately 3000 feet; thence east approximately 400 feet to the 1340 foot contour line; thence north approximately 800 feet; thence west approximately 200 feet; thence north approximately 250 feet to East Vilas Road; thence east along East Vilas Road approximately 450 feet; thence north approximately 2000 feet to a point approximately 150 feet north of Swanson Creek; thence east approximately 600 feet; thence north approximately 850 feet; thence west approximately 750 feet; thence north approximately 650 feet; thence west approximately 2100 feet; thence on a line southeast approximately 600 feet; thence east approximately 450 feet; thence south approximately 1600 feet; thence west approximately 2000 feet to the continuance of the private logging road north of East Vilas Road; thence south along said logging road approximately 850 feet; thence west approximately 750 feet; thence south approximately 150 feet; thence west approximately 550 feet to Peace Lane; thence north along Peace Lane approximately 100 feet; thence west approximately 350 feet; thence north approximately 950 feet; thence west approximately 1000 feet to the western boundary of Section 31, T36S, R1W; thence north approximately 1300 feet along said boundary to the point of beginning.

(4618) "Nonattainment Area" means any area that has been designated as not meeting the standards established by the U.S. Environmental Protection Agency (EPA) pursuant to **40 CFR 51.52** (July, 1993) for any criteria pollutant.

(4719) "O₃" means Ozone.

(4820) "Oakridge UGB" means the area enclosed by the following: Beginning at the northwest corner of Section 17, T21S, R3E and the city limits; thence south along the western boundary of Section 17, T21S, R3E along the city limits approximately 800 feet; thence southwesterly following the city limits approximately 750 feet; thence west along the city limits approximately 450 feet; thence northwesterly along the city limits approximately 450 feet; thence on a line south along the city limits approximately 250 feet; thence on a line east along the city limits approximately 100 feet; thence southwesterly along the city limits approximately 200 feet; thence on a line east along the city limits approximately 400 feet; thence on a line south along the city limits to the channel of the Willamette River Middle Fork; thence south-easterly up the Willamette River Middle Fork along the city limits approximately 7200 feet; thence exiting the Willamette River Middle Fork with the city limits in a northerly manner and forming a rough semicircle with a diameter of approximately one-half mile before rejoining the Willamette River Middle Fork; thence diverging from the city limits upon rejoining the Willamette River Middle Fork and moving southeasterly approximately 5600 feet up the Willamette River Middle Fork to a point on the river even with the point where Salmon Creek Road intersects with U.S. Highway 58; thence on a line east from the channel of the Willamette River Middle Fork across the intersection of Salmon Creek Road and U.S. Highway 58 to the intersection with the Southern Pacific Railroad Line; thence northerly along the Southern Pacific Railroad Line to the intersection with the northern boundary of Section 22, T21S, R3E; thence west along the northern boundary of Section 22, T21S, R3E to the intersection with Salmon Creek Road; thence on a line north to the intersection with the Southern Pacific Railroad Line; thence east along the Southern Pacific Railroad Line approximately 600 feet; thence on a line north to the intersection with High Prairie Road; thence on a line west approximately 400 feet; thence on a line north to the intersection with the northern boundary of Section 15, T21S, R3E; thence west along the northern boundary of Section 15, T21S, R3E to the intersection with the southeastern corner of Section 9, T21S, R3E; thence north along the eastern boundary of Section 9, T21S, R3E approximately 1300 feet; thence on a line west approximately 1100 feet; thence on a line south to the intersection with West Oak Road; thence northwesterly along West Oak Road approximately 2000 feet; thence on a line south to the intersection with the northern boundary line of the city limits; thence westerly and northwesterly approximately 8000 feet along the city limits to the point of beginning.

(1921) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method with the Department's Source Sampling Manual, (January, 1992).

(2022) PM₁₀:

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable water, other than combined water, with an aerodynamic diameter less than or equal to a nominal 10 microns, emitted to the ambient air as measured by as applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992);

(b) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 microns as measured in accordance with 40 CFR Part 50, Appendix J (July, 1993).

(2123) "Portland AQMA" means the area within the bounds beginning at the point starting on the Oregon-Washington state line in the Columbia River at the confluence with the Willamette River, thence east up the Columbia River to the confluence with the Sandy River, thence southerly and easterly up the Sandy River to the point where the Sandy River intersects the Clackamas County-Multnomah County line, thence west along the Clackamas County-Multnomah County line to the point where the Clackamas County-Multnomah County line is intersected by H. Johnson Road (242nd), thence south along H. Johnson Road to the intersection with Kelso Road (Boring Highway), thence west along Kelso Road to the intersection with Deep Creek Road (232nd), thence south along Deep Creek Road to the point of intersection with Deep Creek, thence southeasterly along Deep Creek to the confluence with Clackamas River, thence easterly along the Clackamas River to the confluence with Clear Creek, thence southerly along Clear Creek to the point where Clear Creek intersects Springwater Road then to Forsythe Road, thence easterly along Forsythe Road to the intersection with Bradley Road, thence south along Bradley Road to the intersection with Redland Road, thence west along Redland Road to the intersection with Ferguson Road, thence south along Ferguson Road to the intersection with Thayler Road, thence west along Thayler Road to the intersection with Beaver Creek Road, thence southeast along Beaver Creek Road to the intersection with Henrici Road, thence west along Henrici Road to the intersection with State Highway 213 (Mollala Avenue), thence southeast along State Highway 213 to the point of intersection with Beaver Creek, thence westerly down Beaver Creek to the confluence with the Willamette River, thence southerly and westerly up the Willamette River to the point where the Willamette River intersects the Clackamas County-Yamhill County line, thence north along the Clackamas County-Yamhill County line to the point where it intersects the Washington County-Yamhill County line, thence west and north along the Washington County-Yamhill County line to the point where it is intersected by Mount Richmond Road, thence northeast along Mount Richmond Road to the intersection with Patton Valley Road, thence easterly and northerly along Patton Valley Road to the intersection with Tualatin Valley State Highway, thence northerly along Tualatin Valley State Highway to the intersection with State Highway 47, thence northerly along State Highway 47 to the intersection with Dilley Road, thence northwesterly and northerly along Dilley Road to the intersection with Stringtown Road, thence westerly and northwesterly along Stringtown Road to the intersection with Gales Creek Road, thence northwesterly along Gales Creek Road to the intersection with Timmerman Road, thence northerly along Timmerman Road to the intersection with Wilson River Highway, thence west and southwest along Wilson River Highway to the intersection with Narup Road, thence north along Narup Road to the intersection with Cedar Canyon Road, thence westerly and northerly along Cedar Canyon Road to the intersection with Banks Road, thence west along Banks Road to the intersection with Hahn Road, thence northerly and westerly along Hahn Road to the intersection with Mountindale Road, thence southeasterly along Mountindale Road to the intersection with Glencoe Road, thence east-southeasterly along Glencoe Road to the intersection with Jackson Quarry Road, thence north-northeasterly along Jackson Quarry Road to the intersection with Helvetia Road, thence easterly and southerly along Helvetia Road to the intersection with Bishop Road, thence southerly along Bishop Road to the intersection with Phillips Road, thence easterly along Phillips Road to the intersection with the Burlington Northern Railroad Track, thence northeasterly along the Burlington Northern Railroad Line to the intersection with Rock Creek Road, thence east-southeasterly along Rock Creek Road to the intersection with Old Cornelius Pass Road, thence northeasterly along Old Cornelius Pass Road to the intersection with Skyline Boulevard, thence easterly and southerly along Skyline Boulevard to the intersection with Newberry Road, thence northeasterly along Newberry Road to the intersection with State Highway 30 (St. Helens Road), thence northeast on a line over land across State Highway 30 to the Multnomah Channel, thence east-southeasterly up the Multnomah Channel to the confluence with the Willamette River, thence north-northeasterly down the Willamette River to the confluence with the Columbia River and the Oregon-Washington state line (the point of beginning).

(2224) "Portland Metropolitan Service District Boundary" or "Portland METRO Metro" means the boundary surrounding the urban growth boundaries of the cities within the Greater Portland Metropolitan Area. It is defined in the **Oregon Revised Statutes (ORS) 268.125** (1989).

~~340-024-0301~~(225) As used in this section, "Portland Vehicle Inspection Area" means the area of the state included within the following census tracts, block groups, and blocks as used in the 1990 Federal Census. In Multnomah County, the following tracts, block groups, and blocks are included: Tracts 1, 2, 3.01, 3.02, 4.01, 4.02, 5.01, 5.02, 6.01, 6.02, 7.01, 7.02, 8.01, 8.02, 9.01, 9.02, 10, 11.01, 11.02, 12.01, 12.02, 13.01, 13.02, 14, 15, 16.01, 16.02, 17.01, 17.02, 18.01, 18.02, 19, 20, 21, 22.01, 22.02, 23.01, 23.02, 24.01, 24.02, 25.01, 25.02, 26, 27.01, 27.02, 28.01, 28.02, 29.01, 29.02, 29.03, 30, 31, 32, 33.01, 33.02, 34.01, 34.02, 35.01, 35.02, 36.01, 36.02, 36.03, 37.01, 37.02, 38.01, 38.02, 38.03, 39.01, 39.02, 40.01, 40.02, 41.01, 41.02, 42, 43, 44, 45, 46.01, 46.02, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60.01, 60.02, 61, 62, 63, 64.01, 64.02, 65.01, 65.02, 66.01, 66.02, 67.01, 67.02, 68.01, 68.02, 69, 70, 71, 72.01, 72.02, 73, 74, 75, 76, 77, 78, 79, 80.01, 80.02, 81, 82.01, 82.02, 83.01, 83.02, 84, 85, 86, 87, 88, 89, 90, 91, 92.01, 92.02, 93, 94, 95, 96.01, 96.02, 97.01, 97.02, 98.01, 98.02, 99.01, 99.02, 99.03, 100, 101, 102, 103.01, 103.02, 104.02, 104.04, 104.05, 104.06, 104.07; Block Groups 1, 2 of Tract 105; Blocks 360, 361, 362 of Tract 105; that portion of Blocks 357, 399 of Tract 105 beginning at the intersection of the Oregon-Washington State Line ("State Line") and the northeast corner of Block Group 1 of Tract 105, thence east along the State Line to the intersection of the State Line and the eastern edge of Section 26, Township 1 North, Range 4 East, thence south along the section line to the centerline of State Highway 100 to the intersection of State Highway 100 and the western edge of Block Group 2 of Tract 105. In Clackamas County, the following tracts, block groups, and blocks are included: Tracts 201, 202, 203.01, 203.02, 204.01, 204.02, 205.01, 205.02, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216.01, 216.02, 217, 218, 219, 220, 221.01, 221.02, 222.02, 223, 224, 225, 226, 227.01, 227.02, 228, 229, 230, 231, 232, 233, 234.01, 234.02, 235, 236, 237; Block Groups 1, 2 of Tract 241; Block Groups 1, 2, 3, 4 of Tract 242; Block Groups 1, 2 of Tract 243.02. In Yamhill County, the following tract is included: Tract 301, except those areas in Tract 301 that lie within the Newberg City Limits defined as of July 12, 1996, and the following blocks within Tract 301: 102B, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121D, 122B, 122C, 123, 126, and 127B. In Washington County the following tracts, block groups, and blocks are included: Tracts 301, 302, 303, 304.01, 304.02, 305.01, 305.02, 306, 307, 308.01, 308.02, 309, 310.03, 310.04, 310.05, 310.06, 311, 312, 313, 314.01, 314.02, 315.01, 315.04, 315.05, 315.06, 315.07, 315.08, 316.03, 316.04, 316.05, 316.06, 316.07, 317.02, 317.03, 317.04, 318.01, 318.02, 318.03, 319.01, 319.03, 319.04, 320, 321.01, 321.02, 322, 323, 324.02, 324.03, 324.04, 325, 326.01, 326.02, 328, 329, 330, 331, 332, 333; Block Groups 1, 2 of Tract 327; Block Group 1 of Tract 334; Block Group 2 of Tract 335; Block Group 1 of Tract 336. In Columbia County the following tracts, block groups, and blocks are included: Tract 9710.98; Block Groups 2, 3 of Tract 9709.98; Blocks 146B, 148, 152 of Tract 9709.98.

(26) "Rogue Basin" means the area bounded by the following line: Beginning at the NE corner of T32S, R2E, W.M., thence south along range line 2E to the SE corner of T39S; thence west along township line 39S to the NE corner of T40S, R7W; thence south to the SE corner of T40S, R7W; thence west to the SE corner of T40S, R9W; thence north on range line 9W to the NE corner of T39S, R9W; thence east to the NE corner of T39S, R8W; thence north on range line 8W to the SE corner of Section 1, T33S, R8W on the Josephine-Douglas County line; thence east on the Josephine-Douglas and Jackson-Douglas County lines to the NE corner of T32S, R1W; thence east along township line 32S to the NE corner of T32S, R2E to the point of beginning.

(2327) "Salem-Kaiser Area Transportation Study" or "SKATS" means the area within the bounds beginning at the intersection of U.S. Interstate Highway 5 (I-5) with Battle Creek Road SE and Wiltsey Road, south along I-5 to the intersection with the western boundary of Section 24, T8S, R3W; thence due south on a line to the intersection with Delaney Road; thence easterly along Delaney Road to the intersection with Sunnyside Road; thence north along Sunnyside Road to the intersection with Hylo Road SE; thence west along Hylo Road SE to the intersection with Liberty Road; thence north along Liberty Road to the intersection with Cole Road; thence west along Cole Road to the intersection with Bates Road; thence northerly and easterly along Bates Road to the intersection with Jory Hill Road; thence west along Jory Hill Road to the intersection with Stone Hill Avenue; thence north along Stone Hill Avenue to the intersection with Vita Springs Road; thence westerly along Vita Springs Road to the Willamette River; thence northeasterly downstream the Willamette River to a point adjacent to where the western boundary of Section 30, T7S, R3W intersects the Southern Pacific Railroad Line; thence westerly along the Southern Pacific Railroad Line to the intersection with State Highway 51; thence northeasterly along State Highway 51 to the intersection with Oak Grove Road; thence northerly along Oak Grove Road to the intersection with State Highway 22; thence west on State Highway 22 to the intersection with Oak Grove Road; thence north along Oak Grove Road to the intersection with Orchard Heights Road; thence east and north along Orchard Heights Road to the intersection with Eagle Crest Drive; thence northerly along Eagle Crest Drive to the intersection with Hunt Road; thence north along Hunt

Road to the intersection with Fourth Road; thence east along Fourth Road to the intersection with Spring Valley Road; thence north along Spring Valley to the intersection with Oak Knoll Road; thence east along Oak Knoll Road to the intersection with Wallace Road; thence south along Wallace Road to the intersection with Lincoln Road; thence east along Lincoln Road on a line to the intersection with the Willamette River; thence northeasterly downstream the Willamette River to a point adjacent to where Simon Street starts on the East Bank; thence east and south along Simon Street to the intersection with Salmon; thence east along Salmon to the intersection with Ravena Drive; thence southerly and easterly along Ravena Drive to the intersection with Wheatland Road; thence northerly along Wheatland Road to the intersection with Brooklake Road; thence southeast along Brooklake Road to the intersection with 65th Avenue; thence south along 65th Avenue to the intersection with Labish Road; thence east along Labish Road to the intersection with the West Branch of the Little Pudding River; thence southerly along the West Branch of the Little Pudding River to the intersection with Sunnyview Road; thence east along Sunnyview Road to the intersection with 63rd Avenue; thence south along 63rd Avenue to the intersection with State Street; thence east along State Street to the intersection with 62nd Avenue; thence south along 62nd Avenue to the intersection with Deer Park Drive; thence southwest along Deer Park Drive to the intersection with Santiam Highway 22; thence southeast along Santiam Highway 22 to the point where it intersects the Salem Urban Growth Boundary (SUGB); thence following the southeast boundary of the SUGB generally southerly and westerly to the intersection with Wiltsey Road; thence west along Wiltsey Road to the intersection with I-5 (the point of beginning).

(28) "UGA" means Urban Growth Area.

(29) "UGB" means Urban Growth Boundary.

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stat. Implemented: ORS 468A.025

Hist.: DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 18-1996, f. & cert. ef. 8-19-96; DEQ 1-1999, f. & cert. ef. 1-25-99; renumbered from OAR 340-031-0500.

340-031-0510204-0020

Designation of Air Quality Control Regions

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

(1) **Portland Interstate AQCR**, containing ten counties:

- (a) Benton County;
- (b) Clackamas County;
- (c) Columbia County;
- (d) Lane County;
- (e) Linn County;
- (f) Marion County;
- (g) Multnomah County;
- (h) Polk County;
- (i) Washington County;
- (j) Yamhill County.

(2) **Northwest Oregon AQCR**, containing three counties:

- (a) Clatsop County;
- (b) Lincoln County;
- (c) Tillamook County.

(3) **Southwest Oregon AQCR**, containing five counties:

- (a) Coos County;

- (b) Curry County;
- (c) Douglas County;
- (d) Jackson County;
- (e) Josephine County.

(4) **Central Oregon AQCR**, containing eight counties:

- (a) Crook County;
- (b) Deschutes County;
- (c) Hood River County;
- (d) Jefferson County;
- (e) Klamath County;
- (f) Lake County;
- (g) Sherman County;
- (h) Wasco County.

(5) **Eastern Oregon AQCR**, containing ten counties:

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

Note: The AQCRs should not be confused with the recent DEQ reorganization that split the state into three DEQ regions: Northwest, West and East.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stat. Implemented: ORS 468A.025

Hist.: DEQ 14-1995, f. & cert ef. 5-25-95; renumbered from OAR 340-031-0510.

340-031-0520204-0030

Designation of Nonattainment Areas

The following areas are designated as Nonattainment Areas:

(1) Carbon Monoxide Nonattainment Areas:

- (a) The Grants Pass Nonattainment Area for Carbon Monoxide is the Grants Pass CBD as defined in OAR 340-031-~~0500~~204-0010.
- (b) The Klamath Falls Nonattainment Area for Carbon Monoxide is the Klamath Falls UGB as defined in OAR 340-031-~~0500~~204-0010.
- (c) The Salem Nonattainment Area for Carbon Monoxide is the Salem-Kaiser Area Transportation Study as defined in OAR 340-031-~~0500~~204-0010.

(2) PM₁₀ Nonattainment Areas:

Revocation of the nonattainment designation for the following areas will be effective upon final notice in the Federal Register:

- (a) The Eugene Nonattainment Area for PM₁₀ as defined in OAR 340-031-~~0500~~204-0010.
- (b) The Grants Pass Nonattainment Area for PM₁₀ as defined in OAR 340-031-~~0500~~204-0010.
- (c) The Klamath Falls Nonattainment Area for PM₁₀ as defined in OAR 340-031-~~0500~~204-0010.
- (d) The LaGrande Nonattainment Area for PM₁₀ as defined in OAR 340-031-~~0500~~204-0010.
- (e) The Lakeview Nonattainment Area for PM₁₀ as defined in OAR 340-031-~~0500~~204-0010.
- (f) The Medford Nonattainment Area for PM₁₀ as defined in OAR 340-031-~~0500~~204-0010.
- (g) The Oakridge Nonattainment Area for PM₁₀ as defined in OAR 340-031-~~0500~~204-0010.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stat. Implemented: ORS 468A.025

Hist.: DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 18-1996, f. & cert. ef. 8-19-96; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; renumbered from OAR 340-031-0520.

340-031-0530204-0040

Designation of Maintenance Areas

The following areas are designated as Maintenance Areas:

(1) Carbon Monoxide Maintenance Areas:

(a) The Eugene Maintenance Area for Carbon Monoxide is the Eugene-Springfield AQMA as defined in OAR 340-031-0500204-0010.

(b) The Portland Maintenance Area for Carbon Monoxide is the Portland Metropolitan Service District as referenced in OAR 340-031-0500204-0010.

(c) The Medford Maintenance Area for Carbon Monoxide is the Medford UGB as defined in OAR 340-031-0500204-0010.

(2) Ozone Maintenance Areas:

(a) The Medford Maintenance Area for Ozone is the Medford-Ashland AQMA as defined in OAR 340-031-0500204-0010.

(b) The Oregon portion of the Portland - Vancouver Interstate Maintenance Area for Ozone is the Portland AQMA, as defined in OAR 340-031-0500204-0010.

(3) PM₁₀ Maintenance Areas: There are no areas in the state that have been designated by the EQC as PM₁₀ Maintenance Areas.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stat. Implemented: ORS 468A.025

Hist.: DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 18-1996, f. & cert. ef. 8-19-96; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-28-99; renumbered from OAR 340-031-0530.

340-031-0120204-0050

Restrictions on Area Classifications Designation of Prevention of Significant Deterioration Areas

(1) All of the following areas which were in existence on August 7, 1977, shall be Class I Areas and may not be redesignated:

(a) Mt. Hood Wilderness, as established by Public Law 88-577;

(b) Eagle Cap Wilderness, as established by Public Law 88-577;

(c) Hells Canyon Wilderness, as established by Public Law 94-199;

(d) Mt. Jefferson Wilderness, as established by Public Law 90-548;

(e) Mt. Washington Wilderness, as established by Public Law 88-577;

(f) Three Sisters Wilderness, as established by Public Law 88-577;

(g) Strawberry Mountain Wilderness, as established by Public Law 88-577;

(h) Diamond Peak Wilderness, as established by Public Law 88-577;

(i) Crater Lake National Park, as established by Public Law 88-577 and expanded in the 1990 Clean Air Act Amendments;

(j) Kalmiopsis Wilderness, as established by Public Law 88-577;

(k) Mountain Lake Wilderness, as established by Public Law 88-577;

(l) Gearhart Mountain Wilderness, as established by Public Law 88-577.

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

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

(a) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(b) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

(4) The extent of the areas referred to in section (1) and (3) of this rule shall conform to any changes in the boundaries of such areas which occurred between August 7, 1977, and November 15, 1990.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 18-1979, f. & ef. 6-22-79; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; renumbered from OAR 340-031-0120.

340-031-0130204-0060

Redesignation of Prevention of Significant Deterioration Areas

(1)(a) All areas in Oregon, except as otherwise provided under OAR 340-031-0120204-0050, are designated Class II as of December 5, 1974;

(b) Redesignation, except as otherwise precluded by OAR 340-031-0120204-0050, may be proposed by the Department or Indian Governing Bodies, as provided below, subject to approval by the EPA Administrator as a revision to the State Implementation Plan.

(2) The Department may submit to the EPA Administrator a proposal to redesignate areas of the state Class I or II provided that:

(a) At least one public hearing has been held in accordance with procedures established in the Plan;

(b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

(c) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

(d) Prior to the issuance of notice respecting the redesignation of an area that includes any Federal lands, the Department has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity, not in excess of 60 days to confer with the Department respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the Department shall have published a list of any inconsistency between such redesignation and such comments and recommendations together with the reasons for making such redesignation against the recommendation of the Federal Land Manager; and

(e) The Department has proposed the redesignation after consultation with the elected leadership of local general purpose governments in the area covered by the proposed redesignation.

(3) Any area other than an area to which OAR 340-031-0120204-0050 refers may be redesignated as Class III if:

(a) The redesignation would meet the requirements of section (2) of this rule;

(b) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session, unless state law provides that the redesignation must be specifically approved by state legislation, and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

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

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

(4) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to the EPA Administrator a proposal to redesignate areas Class I, II, or III; provided that:

(a) The Indian Governing Body has followed procedures equivalent to those required of the Department under section (2) and subsections (3)(c) and (d) of this rule; and

(b) Such redesignation is proposed after consultation with the state(s) in which the Indian Reservation is located and which border the Indian Reservation.

(5) The EPA Administrator shall disapprove, within 90 days of submission, a proposed redesignation of any area only if he finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this paragraph or is inconsistent with OAR 340-031-0120/204-0050. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

(6) If the EPA Administrator disapproves any proposed redesignation, the Department or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the EPA Administrator.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047/200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 18-1979, f. & ef. 6-22-79; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-031-0130.

340-021-0010/204-0070

Special Control Areas

As used in OAR 340-021-0005 through 340-021-0060 "special control area" means: The following areas are designated as Special Control Areas:

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

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

(3) Rogue Basin; ~~defined as the area bounded by the following line: Beginning at the NE corner of T32S, R2E, W.M., thence south along range line 2E to the SE corner of T39S; thence west along township line 39S to the NE corner of T40S, R7W; thence south to the SE corner of T40S, R7W; thence west to the SE corner of T40S, R9W; thence north on range line 9W to the NE corner of T39S, R9W; thence east to the NE corner of T39S, R8W; thence north on range line 8W to the SE corner of Section 1, T33S, R8W on the Josephine Douglas County line; thence east on the Josephine Douglas and Jackson Douglas County lines to the NE corner of T32S, R1W; thence east along township line 32S to the NE corner of T32S, R2E to the point of beginning.~~

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047/200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-031-0010.

340-024-0301/204-0080

Motor Vehicle Inspection Boundary Designations

~~(4) In addition to the area specified in ORS 815.300, pursuant to ORS 468A.390, the following geographical areas; referred to as the Portland Vehicle Inspection Area and the Medford-Ashland AQMA, are designated as areas within which motor vehicles are subject to the requirement under ORS 815.300 to have a Certificate of Compliance issued pursuant to ORS 468A.380 to be registered or have the registration of the vehicle renewed.~~

(1) Portland Vehicle Inspection Area;

(2) Medford-Ashland AQMA.

(2) As used in this section, "Portland Vehicle Inspection Area" means the area of the state included within the following census tracts, block groups, and blocks as used in the 1990 Federal Census. In Multnomah County, the following tracts, block groups, and blocks are included: Tracts 1, 2, 3.01, 3.02, 4.01, 4.02, 5.01, 5.02, 6.01, 6.02, 7.01, 7.02, 8.01, 8.02, 9.01, 9.02, 10, 11.01, 11.02, 12.01, 12.02, 13.01, 13.02, 14, 15, 16.01, 16.02, 17.01, 17.02, 18.01, 18.02, 19, 20, 21, 22.01, 22.02, 23.01, 23.02, 24.01, 24.02, 25.01, 25.02, 26, 27.01, 27.02, 28.01, 28.02, 29.01, 29.02, 29.03, 30, 31, 32, 33.01, 33.02, 34.01, 34.02, 35.01, 35.02, 36.01, 36.02, 36.03, 37.01, 37.02, 38.01, 38.02, 38.03, 39.01, 39.02, 40.01, 40.02, 41.01, 41.02, 42, 43, 44, 45, 46.01, 46.02, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60.01, 60.02, 61, 62, 63, 64.01, 64.02, 65.01, 65.02, 66.01, 66.02, 67.01, 67.02, 68.01, 68.02, 69, 70, 71, 72.01, 72.02, 73, 74, 75, 76, 77, 78, 79, 80.01, 80.02, 81, 82.01, 82.02, 83.01, 83.02, 84, 85, 86, 87, 88, 89, 90, 91, 92.01, 92.02, 93, 94, 95, 96.01, 96.02, 97.01, 97.02, 98.01, 98.02, 99.01, 99.02, 99.03, 100, 101, 102, 103.01, 103.02, 104.02, 104.04, 104.05, 104.06, 104.07; Block Groups 1, 2 of Tract 105; Blocks 360, 361, 362 of Tract 105; that portion of Blocks 357, 399 of Tract 105 beginning at the intersection of the Oregon Washington State Line ("State Line") and the northeast corner of Block Group 1 of Tract 105, thence east along the State Line to the intersection of the State Line and the eastern edge of Section 26, Township 1 North, Range 4 East, thence south along the section line to the centerline of State Highway 100 to the intersection of State Highway 100 and the western edge of Block Group 2 of Tract 105. In Clackamas County, the following tracts, block groups, and blocks are included: Tracts 201, 202, 203.01, 203.02, 204.01, 204.02, 205.01, 205.02, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216.01, 216.02, 217, 218, 219, 220, 221.01, 221.02, 222.02, 223, 224, 225, 226, 227.01, 227.02, 228, 229, 230, 231, 232, 233, 234.01, 234.02, 235, 236, 237; Block Groups 1, 2 of Tract 241; Block Groups 1, 2, 3, 4 of Tract 242; Block Groups 1, 2 of Tract 243.02. In Yamhill County, the following tract is included: Tract 301, except those areas in Tract 301 that lie within the Newberg City Limits defined as of July 12, 1996, and the following blocks within Tract 301: 102B, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121D, 122B, 122C, 123, 126, and 127B. In Washington County the following tracts, block groups, and blocks are included: Tracts 301, 302, 303, 304.01, 304.02, 305.01, 305.02, 306, 307, 308.01, 308.02, 309, 310.03, 310.04, 310.05, 310.06, 311, 312, 313, 314.01, 314.02, 315.01, 315.04, 315.05, 315.06, 315.07, 315.08, 316.03, 316.04, 316.05, 316.06, 316.07, 317.02, 317.03, 317.04, 318.01, 318.02, 318.03, 319.01, 319.03, 319.04, 320, 321.01, 321.02, 322, 323, 324.02, 324.03, 324.04, 325, 326.01, 326.02, 328, 329, 330, 331, 332, 333; Block Groups 1, 2 of Tract 327; Block Group 1 of Tract 34; Block Group 2 of Tract 335; Block Group 1 of Tract 336. In Columbia County the following tracts, block groups, and blocks are included: Tract 9710.98; Block Groups 2, 3 of Tract 9709.98; Blocks 146B, 148, 152 of Tract 9709.98.

(3) As used in this section, "Medford Ashland Air Quality Maintenance Area" means the area of the state beginning at a point approximately one mile northeast of the town of Eagle Point, Jackson County, Oregon, at the northeast corner of section 36, T35S, R1W; thence south along the Willamette Meridian to the southeast corner of section 25, T37S, R1W; thence southeast along a line to the southeast corner of section 9, T39S, R2E; thence south-southeast to the southeast corner of section 22, T39S, R2E; thence south to the southeast corner of section 27, T39S, R2E; thence southwest to the southeast corner of section 33, T39S, R2E; thence west to the southwest corner of section 31, T39S, R2E; thence northwest to the northwest corner of section 36, T39S, R1E; thence west to the southwest corner of section 26, T39S, R1E; thence northwest along a line to the southeast corner of section 7, T39S, R1E; thence west to the southwest corner of section 12, T39S, R1W; thence northwest along a line to the southwest corner of section 20, T38S, R1W; thence west to the southwest corner of section 24, T38S, R2W; thence northwest along a line to the southwest corner of section 4, T38S, R2W; thence west to the southwest corner of section 5, T38S, R2W; thence northwest along a line to the southwest corner of section 31, T37S, R2W; thence north along a line to the Rogue River, thence north and east along the Rogue River to the north boundary of section 32, T35S, R1W; thence east along a line to the point of beginning.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.390

Hist.: DEQ 11-1985, f. 9-30-85, ef. 1-1-86; DEQ 21-1988, f. & cert. ef. 9-12-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 1-1995, f. & cert. ef. 1-10-95; DEQ 13-1996, f. & cert. ef. 8-12-96

340-022-0470204-0090

Oxygenated Gasoline Control Areas

(4) The following are considered ~~control~~ oxygenated gasoline control areas:

(a1) Clackamas, Multnomah, Washington and Yamhill Counties;

(b2) Jackson County;

(3) Grants Pass Control Area;

(4) Klamath Falls Control Area.

~~(2) As used in this section, the Grants Pass control area means the area of the state beginning at the northeast corner of Section 35, T35S, R5W; thence south to the southeast corner of Section 11, T37S, R5W; thence west to the southwest corner of Section 9, T37S, R6W; thence north to the northwest corner of Section 33, T35S, R6W; thence east to the point of beginning.~~

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0470.

DIVISION ~~27206~~

AIR POLLUTION EMERGENCIES

~~340-027-0005-206-0010~~

Introduction

OAR ~~340-027-0010~~206-0030, ~~340-027-0015~~206-0050 and ~~340-027-0025~~206-0060 are effective within priority I and II air quality control regions (AQCR) as defined in **40 CFR Part 51, subpart H (1995)**, when the AQCR contains a nonattainment area listed in **40 CFR Part 81**. All other rules in this Division are equally applicable to all areas of the state. Notwithstanding any other regulation or standard, this Division is designed to prevent the excessive accumulation of air contaminants during periods of atmospheric stagnation or at any other time, which if allowed to continue to accumulate unchecked could result in concentrations of these contaminants reaching levels which could cause significant harm to the health of persons. This Division establishes criteria for identifying and declaring air pollution episodes at levels below the level of significant harm and are adopted pursuant to the requirements of the **Federal Clean Air Act** as amended and **40 CFR Part 51.151**. Levels of significant harm for various pollutants listed in **40 CFR Part 51.151** are:

- (1) For sulfur dioxide (SO₂) - 1.0 ppm, 24-hour average.
- (2) For particulate matter (PM₁₀) - 600 micrograms per cubic meter, 24-hour average.
- (3) For carbon monoxide (CO):
 - (a) 50 ppm, 8-hour average.
 - (b) 75 ppm, 4-hour average.
 - (c) 125 ppm, 1-hour average.
- (4) For ozone (O₃) - 0.6 ppm, 2-hour average.
- (5) For nitrogen dioxide (NO₂):
 - (a) 2.0 ppm, 1-hour average.
 - (b) 0.5 ppm, 24-hour average.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

[Publication: The publication(s) referred to or incorporated by reference in this rule are available from the office of the agency in Portland.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 9-1-72; DEQ 18-1983, f. & ef. 10-24-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-027-0005.

340-206-0020

Definitions

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

[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

Stats. Implemented: ORS 468A.025

340-027-0010206-0030

Episode Stage Criteria for Air Pollution Emergencies

Three stages of air pollution episode conditions and a pre-episode standby condition are established to inform the public of the general air pollution status and provide a management structure to require preplanned actions designed to prevent continued accumulation of air pollutants to the level of significant harm. The three episode stages are: Alert, Warning, and Emergency. The Department shall be responsible

to enforce the provisions of this Division which requires actions to reduce and control emissions during air pollution episode conditions. An air pollution alert or air pollution warning shall be declared by the Director or appointed representative when the appropriate air pollution conditions are deemed to exist. When conditions exist which are appropriate to an air pollution emergency, the Department shall notify the Governor and declare an air pollution emergency pursuant to ORS 468.115. The statement declaring an air pollution Alert, Warning or Emergency shall define the area affected by the air pollution episode where corrective actions are required. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Department determines that the accumulation of air contaminants in any place is increasing or has increased to levels which could, if such increases are sustained or exceeded, lead to a threat to the health of the public. In making this determination, the Department will be guided by the following criteria for each pollutant and episode stage:

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

(2) "Air Pollution Alert" condition indicates that air pollution levels are significantly above standards but there is no immediate danger of reaching the level of significant harm. Monitoring should be intensified and readiness to implement abatement actions should be reviewed. At the Air Pollution Alert level the public is to be kept informed of the air pollution conditions and of potential activities to be curtailed should it be necessary to declare a warning or higher condition. An Air Pollution Alert condition is a state of readiness. When the conditions in both subsections (a) and (b) of this section are met, an Air Pollution Alert will be declared and all appropriate actions described in **Tables 1 and 4** shall be implemented:

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

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

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

(B) Particulate matter (PM₁₀) 350 micrograms per cubic meter (ug/m³) — 24-hour average;

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

(D) Ozone — 0.2 ppm — 1-hour average;

(E) Nitrogen dioxide:

(i) 0.6 ppm — 1-hour average; or

(ii) 0.15 ppm — 24-hour average.

(3) "Air Pollution Warning" condition indicates that pollution levels are very high and that abatement actions are necessary to prevent these levels from approaching the level of significant harm. At the Air Pollution Warning level substantial restrictions may be required limiting motor vehicle use and industrial and commercial activities. When the conditions in both subsections (a) and (b) of this section are met, an Air Pollution Warning will be declared by the Department and all appropriate actions described in **Tables 2 and 4** shall be implemented:

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

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

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

(B) Particulate matter (PM₁₀) 420 ug/m³ — 24-hour average;

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

(D) Ozone — 0.4 ppm — 1-hour average;

(E) Nitrogen dioxide:

(i) 1.2 ppm — 1-hour average; or

(ii) 0.3 ppm — 24-hour average.

(4) "Air Pollution Emergency" condition indicates that air pollutants have reached an alarming level requiring the most stringent actions to prevent these levels from reaching the level of significant harm to the health of persons. At the Air Pollution Emergency level extreme measures may be necessary involving the closure of all manufacturing, business operations and vehicle traffic not directly related to emergency services. Pursuant to ORS 468.115, when the conditions in both subsections (a) and (b) of this section are met, an air pollution emergency will be declared by the Department and all appropriate actions described in **Tables 3 and 4** shall be implemented:

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

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

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

(B) Particulate matter (PM₁₀) 500 ug/m³ — 2-hour average;

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

(D) Ozone 0.5 ppm — 1-hour average;

(E) Nitrogen dioxide:

(i) 1.6 ppm — 1-hour average; or

(ii) 0.4 ppm — 24-hour average.

(5) "Termination": Any air pollution episode condition (Alert, Warning or Emergency) established by these criteria may be reduced to a lower condition when the elements required for establishing the higher conditions are no longer observed.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 9-1-72; DEQ 18-1983, f. & ef. 10-24-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-027-0010.

340-027-0012-206-0040

Special Conditions

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

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

(a) "Air Pollution Alert for Particulate from Volcanic Fallout or Windblown Dust" means total suspended particulate values are significantly above standard but the source is volcanic eruption or dust storm. In this condition there is no significant danger to public health but there may be a public nuisance created from the dusty conditions. It may be advisable under these circumstances to voluntarily restrict traffic volume and/or speed limits on major thoroughfares and institute cleanup procedures. The Department will declare an air pollution alert for particulate from volcanic fallout or wind-blown dust when total suspended particulate values at any monitoring site exceed or are projected to exceed 800 ug/m³ — 24-hour average and the suspended particulate is primarily from volcanic activity or dust storms, meteorological conditions notwithstanding;

(b) "Air Pollution Warning for Particulate from Volcanic Fallout or Windblown Dust" means total suspended particulate values are very high but the source is volcanic eruption or dust storm. Prolonged

exposure over several days at or above these levels may produce respiratory distress in sensitive individuals. Under these conditions staggered work hours in metropolitan areas, mandated traffic reduction, speed limits and cleanup procedures may be required. The Department will declare an air pollution warning for particulate from volcanic fallout or wind-blown dust when total suspended particulate values at any monitoring site exceed or are expected to exceed 2,000 ug/m³ — 24-hour average and the suspended particulate is primarily from volcanic activity or dust storms, meteorological conditions notwithstanding;

(c) "Air Pollution Emergency for Particulate from Volcanic Fallout or Windblown Dust" means total suspended particulate values are extremely high but the source is volcanic eruption or dust storm. Prolonged exposure over several days at or above these levels may produce respiratory distress in a significant number of people. Under these conditions cleaning procedures must be accomplished before normal traffic can be permitted. An air pollution emergency for particulate from volcanic fallout or wind-blown dust will be declared by the Director, who shall keep the Governor advised of the situation, when total suspended particulate values at any monitoring site exceed or are expected to exceed 5,000 ug/m³ — 24-hour average and the suspended particulate is primarily from volcanic activity or dust storms, meteorological conditions notwithstanding.

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

(4) Action: Municipal and county governments or other governmental agency having jurisdiction in areas affected by an air pollution Alert, Warning or Emergency for particulate from volcanic fallout or windblown dust shall place into effect the actions pertaining to such episodes which are described in **Table 4**.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 18-1983, f. & ef. 10-24-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-027-0012.

340-027-0015206-0050

Source Emission Reduction Plans

(1) **Tables 1, 2, and 3** of this Division set forth specific emission reduction measures which shall be taken upon the declaration of an air pollution alert, air pollution warning, or air pollution emergency. Any person responsible for a source of air contamination within a Priority I AQCR shall, upon declaration of any air pollution episode condition affecting the locality of the air contamination source, take all appropriate actions specified in the applicable table and shall take appropriate actions specified in an approved source emission reduction plan which has been submitted and is on file with the Department.

(2) Any person responsible for the operation of any point source of air pollution which is located in a Priority I AQCR, located within an Air Quality Maintenance Area (AQMA) or located within a nonattainment area listed in **40 CFR, Part 81**, and Emits 100 tons or more of any air pollutant specified by subsection (a) or (b) of this section shall file a Source Emission Reduction Plan (SERP) with the Department in accordance with the schedule described in section (4) of this rule. Persons responsible for other point sources of air pollution located in a Priority I AQCR may optionally file a SERP with the Department for approval. Such plans shall specify procedures to implement the actions required by **Tables 1, 2, and 3** of this Division and shall be consistent with good engineering practice and safe operating procedures. Source emission reduction plans specified by this section are mandatory only for those sources which:

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

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

(3) Municipal and county governments or other governmental body having jurisdiction in nonattainment areas where ambient levels of carbon monoxide, ozone or nitrogen dioxide qualify for Priority I ACQR classification, shall cooperate with the Department in developing a traffic control plan to be implemented during air pollution episodes of motor vehicle related emissions. Such plans shall implement the actions required by **Tables 1, 2 and 3** of this Division and shall be consistent with good traffic management practice and public safety.

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

(5) During an air pollution alert, warning or emergency episode, source emission reduction plans required by this rule shall be available on the source premises for inspection by any person authorized to enforce the provisions of this Division.

[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-~~020-0047200-0040~~.]

[Publication: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 9-1-72; DEQ 18-1983, f. & ef. 10-24-83; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-027-0015.

340-027-0025206-0060

Regional Air Pollution Authorities

(1) The Department of Environmental Quality and the regional air pollution authorities shall cooperate to the fullest extent possible to insure uniformity of enforcement and administrative action necessary to implement this Division. With the exception of sources of air contamination where jurisdiction has been retained by the Department of Environmental Quality, all persons within the territorial jurisdiction of a regional air pollution authority shall submit the source emission reduction plans prescribed in OAR 340-~~027-0015206-0050~~ to the regional air pollution authority. The regional air pollution authority shall submit copies of approved source emission reduction plans to the Department of Environmental Quality.

(2) Declarations of air pollution alert, air pollution warning, and air pollution emergency shall be made by the appropriate regional authority. In the event such a declaration is not made by the regional authority, the Department of Environmental Quality shall issue the declaration and the regional authority shall take appropriate remedial actions as set forth in this Division.

(3) Additional responsibilities of the regional authorities shall include, but are not limited to:

(a) Securing acceptable source emission reduction plans;

(b) Measurement and reporting of air quality data to the Department of Environmental Quality;

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

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

[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-~~020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 9-1-72; DEQ 18-1983, f. & ef. 10-24-83; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-027-0025.

340-027-0035206-0070

Operations Manual

The Department shall maintain an operations manual to administer the provisions of this Division. This manual shall be available to the Department Emergency Action office at all times. At a minimum the **Operations Manual** shall contain the following elements:

- (1) A copy of this Division.
- (2) A chapter on communications which shall include:
 - (a) Telephone lists naming public officials, public health and safety agencies, local government agencies, emission sources, news media agencies and individuals who need to be informed about the episode status and information updates. These telephone lists shall be specific to episode conditions and will be used when declaring and cancelling episode conditions;
 - (b) Example and sample messages to be released to the news media for declaring or modifying an episode status.
- (3) A chapter on data gathering and evaluation which shall include:
 - (a) A description of ambient air monitoring activities to be conducted at each episode stage including "Standby";
 - (b) Assignment of responsibilities and duties for ascertaining ambient air levels of specified pollutants and notification when levels reach the predetermined episode levels;
 - (c) Assignment of responsibilities and duties for monitoring meteorological developments from teletype reports and National Weather Service contacts. Part of this responsibility shall be to evaluate the meteorological conditions for their potential to affect ambient air pollutant levels.
- (4) A chapter defining responsibilities and duties for conducting appropriate source compliance inspections during episode stages requiring curtailment of pollutant emissions.
- (5) A chapter establishing the duties and responsibilities of the emergency action center personnel to assure coordinated operation during an air pollution episode established in accordance with this Division.
- (6) An appendix containing individual source emission reduction plans required by this Division plus any approved voluntary plans.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 18-1983, f. & ef. 10-24-83; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-027-0035.

Table 1
Air Pollution Episode
ALERT Conditions
Source Emission Reduction Plan

Emission Control Actions to be Taken
as Appropriate in Alert Episode Area

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

- a. There shall be no open burning of any material in the designated area.
 - b. Where appropriate and if air quality maintenance strategies have not already prohibited the use of woodstoves and fireplaces, the public is requested to refrain from using coal or wood in uncertified woodstoves and fireplaces for domestic space heating where other heating methods are available.
 - c. Sources having Emission Reduction Plans, review plans and assure readiness to put them into effect if conditions worsen.
-

Part B - Pollution Episode Conditions for Carbon Monoxide, Ozone

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

Table 2
 Air Pollution Episode WARNING Conditions
 Emission Reduction Plan

Part A - Pollution Episode Conditions for Particulate Matter (PM₁₀)
 (Except Particulate from Volcanic Activity or Windblown Dust.)

Source	Emission control action to be taken as appropriate in warning area.
<p>a. General (all sources and general public)</p>	<p>a. Continue alert procedures. b. Where legal authority exists, governmental agencies shall prohibit all use of woodstoves and fireplaces for domestic space heating except where such woodstoves and fireplaces provide the sole source of heat. c. The use of incinerators for disposal of solid or liquid waste is prohibited. d. Reduce emissions as much as possible consistent with safety to people and prevention of irreparable damage to equipment. e. Prepare for procedures to be followed if an emergency episode develops.</p>
<p>b. Specific additional general requirements for coal, oil or wood-fired electric power or steam generating facilities.</p>	<p>a. Effect a maximum reduction in emissions by switching to fuels having the lowest available ash and sulfur content. b. Switch to electric power sources located outside the Air Pollution Warning area or to noncombustion sources (hydro, thermonuclear). c. Cease operation of facilities not related to safety or protection of equipment or delivery of priority power.</p>

Table 2
Air Pollution Episode WARNING Conditions
Emission Reduction Plan

Part A - Pollution Episode Conditions for Particulate Matter (PM₁₀)
(Except Particulate from Volcanic Activity or Windblown Dust.)

Source	Emission control action to be taken as appropriate in warning area.
<p>c. Specific additional general requirements for manufacturing industries including: Petroleum, Refining, Chemical, Primary Metals, Glass, Paper and Allied Products, Mineral Processing, Grain and Wood Processing</p>	<p>a. Reduce process heat load demand to the minimum possible consistent with safety and protection of equipment.</p> <p>b. Reduce emission of air contaminants from manufacturing by closing, postponing or deferring production to the maximum extent possible without causing injury to persons or damage to equipment. In so doing, assume reasonable economic hardships. Do not commence new cooks, batches or furnace changes in batch operation. Reduce continuous operations to minimum operating level where practicable.</p> <p>c. Defer trade waste disposal operations which emit solid particles, gases, vapors or malodorous substances.</p>

Table 2 - (continued)
(340-27-010206-0030, 340-27-015206-0050)

Air Pollution Episode WARNING Conditions
Emission Reduction Plan

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

-
- a. All operators of motor vehicles continue alert procedures.
 - b. Operation of motor vehicles carrying fewer than three persons shall be requested to avoid designated areas from 6 a.m. to 11 a.m. and 2 p.m. to 7 p.m. or other hours as may be specified by the Department. Exempted from this request are:
 - 1. Emergency vehicles
 - 2. Public transportation
 - 3. Commercial vehicles
 - 4. Through traffic remaining on Interstate or primary highways
 - 5. Traffic controlled by a preplanned strategy
 - c. In accordance with a traffic control plan prepared pursuant to OAR 340-27-015(3)206-0050, public transportation operators shall provide the additional service necessary to minimize the public inconvenience resulting from actions taken in accordance with paragraph b. above.
 - d. For ozone episodes there shall be:
 - 1. No bulk transfer of gasoline without vapor recovery from 2 a.m. to 2 p.m.
 - 2. No service station pumping sales of gasoline from 2 a.m. to 2 p.m.

3. No operation of paper coating plants from 2 a.m. to 2 p.m.
4. No architectural painting or auto refinishing.
5. No venting of dry cleaning solvents from 2 a.m. to 2 p.m. (except perchloroethylene).
- e. When appropriate for carbon monoxide episodes during the heating season and where legal authority exists, governmental agencies shall prohibit all use of woodstoves and fireplaces for domestic space heating except when such woodstoves and fireplaces provide the sole source of heat.

Table 3
(340-27-010206-0030, 340-27-015206-0050)

Air Pollution Episode EMERGENCY Conditions
Emission Reduction Plan

Pollution Episode Conditions for all Pollutants
(Except Particulate from Volcanic Activity or Windblown Dust.)

Source	Emission control actions to be taken as appropriate in emergency area
a. Requirements for all measures sources and general public.	<ul style="list-style-type: none">a. Continue emission reduction taken under warning conditions.b. All places of employment, commerce, trade, public gatherings, government, industry, business, or manufacture shall immediately cease operations.c. Paragraph b. above does not apply to:<ul style="list-style-type: none">1. Police, fire, medical and other emergency services.2. Utility and communication services.3. Governmental functioning necessary for civil control and safety.4. Operations necessary to prevent injury to persons or serious damage to equipment or property.5. Food stores, drug stores and operations necessary for their supply .6. Operations necessary for evacuation of persons leaving the area.7. Operations conducted in accordance with an approved Source Emission Reduction Plan on file with the Department.d. The operation of motor vehicles is prohibited except for the conduct of the functions exempted in paragraph c. above.e. Reduce heat and power loads to a minimum by maintaining heated occupied spaces no higher than 65° F and turning off heat to all other spaces.f. Where legal authority exists, governmental agencies shall prohibit all use of woodstoves and fireplaces for domestic space heating.

Table 3 (continued)
 (340-27-010206-0030, 340-27-015206-0050)

Air Pollution Episode EMERGENCY Conditions
 Emission Reduction Plan

Pollution Episode Conditions for all Pollutants
 (Except Particulate from Volcanic Activity or Windblown Dust.)

Source	Emission control actions to be taken as appropriate in emergency area
b. Specific additional requirements for coal oil or wood-fired electric power generating facilities operating under an approved source emission reduction plan.	a. Maintain operation at the lowest level possible consistent with prevention of damage to equipment and power production no higher than is required to supply power which is obtained elsewhere for essential services.
c. Specific additional requirements for coal, oil or wood-fired steam generating facilities operating under an approved source emission reduction plan.	a. Reduce operation to lowest level possible consistent with preventing damage to equipment.
d. Specific additional requirements for industries operating under an approved source emission reduction plan including: Petroleum Refining; Chemical; Primary Metals; Glass; Paper and Allied Products; Mineral Processing; Grain; Wood Processing.	a. Cease all trade waste disposal operations. b. If meteorological conditions are expected to persist for 24 hours or more, cease all operations not required for safety and protection of equipment.

Table 4
(340-27-012206-0040)

Air Pollution Episode Conditions Due to Particulate Which is Primarily
Fallout from Volcanic Activity or Windblown Dust

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

Part A - ALERT Condition Actions

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

Part B - WARNING Condition Actions

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

Part C - EMERGENCY Condition Actions

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

DIVISION 208

VISIBLE EMISSIONS AND NUISANCE REQUIREMENTS

340-021-0005208-0010

Definitions

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

As used in OAR 340-021-0005 through 340-021-0060:

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

(2) "Coastal Areas" means Clatsop, Tillamook, Lincoln, Coos, and Curry Counties and those portions of Douglas and Lane County west of Range 8 West, Willamette Meridian.

(2) "Emission" means a release into the outdoor atmosphere of air contaminants. [~~Note: copied from former OAR 340-030-0010~~]

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

(3) "Fuel Burning Equipment" means a device which burns a solid, liquid, or gaseous fuel, the principal purpose of which is to produce heat, except marine installations and internal combustion engines that are not stationary gas turbines. [~~Note: copied from former OAR 340-030-0010~~]

(4) "Fugitive Emissions" means emissions of any air contaminant that escape to the atmosphere from any point or area not identifiable as a stack, vent, duct, or equivalent opening.

(5) "~~Municipal Waste Incinerator~~" means ~~a device used to reduce the volume of general household wastes by combustion which is capable of processing more than 200 lb/hr of such wastes but which is too small to be classed as a major source as defined by the Department's New Source Review rule, OAR 340-020-0220 to 340-020-0275.~~

(6) "New source" means, for purposes of OAR 340-208-0110, any air contaminant source installed, constructed, or modified after June 1, 1970.

OAR 340-021-0050(6) "Nuisance condition" means unusual or annoying amounts of fugitive emissions traceable directly to one or more specific sources. In determining whether a nuisance condition exists, consideration shall be given to all of the circumstances, including density of population, duration of the activity in question, and other applicable factors.

(7) "Odor" means that property of an air contaminant that affects the sense of smell. [~~copied from former OAR 340-030-0010~~]

(8) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with OAR 340-028-1100212-0120 and 1120212-0140. Unless otherwise specified by rule, opacity shall be measured in accordance with EPA Method 9. For all standards, the minimum observation period shall be six minutes, though longer periods may be required by a specific rule or permit condition. Aggregate times (e.g. 3 minutes in any one hour) consist of the total duration of all readings during the observation period that exceed the opacity percentage in the standard, whether or not the readings are consecutive. Alternatives to EPA Method 9, such as a continuous opacity monitoring system (COMS), alternate Method 1 (LIDAR), or EPA Methods 22, or 203, may be used if approved in advance by the Department, in accordance with the Source Sampling Manual.

(9) "Particulate matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method in accordance with OAR 340-028-1100212-0120 and 1120 OAR 340-212-0140. Sources with exhaust gases at or near ambient conditions may be tested with DEQ Method 5 or DEQ Method 8, as approved by the Department. Direct heat transfer sources shall be tested with DEQ Method 7; indirect heat transfer combustion sources and all other non-fugitive emissions sources not listed above shall be tested with DEQ Method 5 or an equivalent method approved by the Department;

(10) "Refuse" means unwanted matter.

(11) "~~Refuse burning equipment~~" means a device designed to reduce the volume of solid, liquid, or gaseous refuse by combustion.

(12) "Special Control Area" means an area designated in OAR 340-204-0070.

(~~11~~13) "Standard conditions" means a temperature of 68° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

(~~12~~14) "Standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from fuel or refuse burning, "standard cubic foot" also implies adjustment of gas volume to that which would result at a concentration of 12% carbon dioxide or 50% excess air.

[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-~~020-0047-200-0040~~.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 1-1984, f. & ef. 1-16-84; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-021-0005.

Visible Emissions

340-021-001~~2~~208-0100

Applicability

OAR 340-~~021-001~~2~~208-0100~~ through 340-~~021-003~~0~~208-0110~~ apply in all areas of the state.

[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-~~020-0047-200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 10-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-021-0012.

340-021-001~~5~~208-0110

Visible Air Contaminant Limitations

(1) Existing sources outside special control areas. No person shall cause, suffer, allow, or permit the emission of any air contaminant into the atmosphere from any existing air contaminant source located outside a special control area for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 40% opacity.

(2) New sources in all areas and existing sources within special control areas: No person shall cause, suffer, allow, or permit the emission of any air contaminant into the atmosphere from any new air contaminant source, or from any existing source within a special control area, for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 20% opacity.

(3) Exceptions to sections (1) and (2) of this rule:

(a) Where the presence of uncombined water is the only reason for failure of any emission to meet the requirements of sections (1) and (2) of this rule, such sections shall not apply;

(b) Existing fuel burning equipment utilizing wood wastes and located within special control areas shall comply with the emission limitations of section (1) of this rule in lieu of section (2) of this rule.

[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-~~020-0047-200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 4-1993, f. & cert. Ef. 3-10-93; DEQ 3-1996, f. & cert. Ef. 1-29-96; renumbered from OAR 340-021-0015.

Nuisance Requirements

340-021-005~~5~~208-0200

Applicability

OAR 340-~~021-005~~0~~208-0200~~ through 340-~~021-006~~0~~208-0210~~ shall apply:

(1) Within Special Control Areas, as established in OAR 340-~~021-001~~0~~204-0070~~.

(2) When ordered by the Department, in other areas when the need for application of these rules, and the practicability of control measures, have been clearly demonstrated.

[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-~~020-0047-200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-021-0055.

340-021-0060208-0210

Requirements

(1) When fugitive emissions escape from a building or equipment in such a manner and amount as to create nuisance conditions or to violate any regulation, the Department may, in addition to other means of obtaining compliance, order that the building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that air contaminants are controlled or removed before discharge to the open air.

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

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

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

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

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

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

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

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047-200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-021-0060.

Clackamas, Columbia, Multnomah, and Washington Counties

340-030-0400208-0500

Application

OAR ~~340-030-0400208-0500~~ through ~~340-030-0540208-0640~~ shall apply in Clackamas, Columbia, Multnomah, and Washington Counties.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0001; renumbered from OAR 340-030-0400.

340-030-0410208-0510

Exclusions

The requirements contained in OAR ~~340-030-0400208-0500~~ through ~~340-030-0540208-0640~~ shall apply to all activities conducted in Clackamas, Columbia, Multnomah, and Washington Counties, other than those for which specific industrial standards have been adopted (Divisions ~~25230, 234, 236, and 238~~), except for the reduction of animal matter, OAR ~~340-025-0055236-0310~~(1) and (2).

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0003; renumbered from OAR 340-030-0410.

340-030-0420208-0520

Incinerators and Refuse Burning Equipment

(1) No person shall cause, permit, or maintain any emission from any refuse burning equipment which does not comply with the emission limitations of this rule.

(2) Refuse Burning Hours:

(a) No person shall cause, permit, or maintain the operation of refuse burning equipment at any time other than one-half hour before sunrise to one-half hour after sunset, except with prior approval of the Department;

(b) Approval of the Department for the operation of such equipment may be granted upon the submission of a written request stating:

- (A) Name and address of the applicant;
- (B) Location of the refuse burning equipment;
- (C) Description of refuse burning equipment and its control apparatus;
- (D) Type and quantity of refuse;
- (E) Good cause for issuance of such approval;
- (F) Hours during which the applicant seeks to operate the equipment;
- (G) Time duration for which approval is sought.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0025; renumbered from OAR 340-030-0420.

340-030-0430208-0530

Concealment and Masking of Emissions

(1) No person shall willfully cause or permit the installation or use of any device or use of any means such as dilution, which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminants which would otherwise violate OAR Chapter 340.

(2) No person shall cause or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant, which air contaminant causes or is likely to cause detriment to health, safety, or welfare of any person.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0030; renumbered from OAR 340-030-0430.

340-030-0440208-0540

Effective Capture of Air Contaminant Emissions

Air contaminants which are, or may be, emitted to the atmosphere through doors, windows, or other openings in a structure or which are, or may be, emitted from any process not contained in a structure, shall be captured and transferred to air pollution control equipment using the most efficient and best practicable hooding, shrouding, or ducting equipment available. New sources shall comply at the time of installation.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0040; renumbered from OAR 340-030-0440.

340-030-0450208-0550

Odor Control Measures

(1) Control apparatus and equipment, using the highest and best practicable treatment currently available, shall be installed and operated to reduce to a minimum odor-bearing gases or odor-bearing particulate matter emitted into the atmosphere.

(2) Gas effluents from incineration operations and process after-burners shall be maintained at a temperature of 1,400° Fahrenheit for at least a 0.5 second residence time, or controlled in another manner determined by the Department to be equally or more effective.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0045; renumbered from OAR 340-030-0450.

340-030-0460208-0560

Storage and Handling of Petroleum Products

(1) In volumes of greater than 40,000 gallons, gasoline or any volatile petroleum distillate or organic liquid having a vapor pressure of 1.5 psia or greater under actual storage conditions shall be stored in pressure tanks or reservoirs or shall be stored in containers equipped with a floating roof or vapor recovery system or other vapor emission control device.

(2) Gasoline or petroleum distillate tank car or tank loading facilities handling 20,000 gallons per day or more shall be equipped with submersible filling devices or other vapor emission control systems.

(3) Gasoline tanks with a capacity of 500 gallons or more, installed after January 1, 1970, shall be equipped with submersible filling device or other vapor emission control systems.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0050; renumbered from OAR 340-030-0460.

340-030-0470208-0570

Ships

While in those portions of the Willamette River and Columbia River which pass through or adjacent to Clackamas, Columbia, and Multnomah Counties, each ship shall minimize emissions from soot blowing and shall be subject to the emission standards and rules for visible emissions and particulate matter size.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0055; renumbered from OAR 340-030-0470.

340-030-0480208-0580

Upset Condition

Emission of air contaminants in excess of applicable standards as a result of equipment breakdown shall be subject to OAR ~~340-028-1400214-0300~~ through ~~340-028-1460214-0360~~.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0060; DEQ 4-1995, f. & cert. ef. 2-17-95; renumbered from OAR 340-030-0480.

340-030-0490-208-0590

Emission Standards — General

Compliance with any specific emission standard in this Division does not preclude required compliance with any other applicable emission standard or requirement contained in OAR Chapter 340.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0065; renumbered from OAR 340-030-0490.

340-030-0500-208-0600

Visible Air Contaminant Standards

No person owning, operating, or maintaining non-fuel burning equipment sources of emissions shall discharge into the atmosphere from any single source of emission whatsoever any air contaminant for a period or periods aggregating more than 30 seconds in any one hour which is equal to or greater than 20 percent opacity.

Stat. Auth.: ORS 468 & ORS 468A.

Stats. Implemented: ORS 468.020 & ORS 468A.025.

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0070; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-030-0500.

340-030-0510208-0610

Particulate Matter Weight Standards

(1) Except for equipment burning natural gas and liquefied petroleum gas, the maximum allowable emission of particulate matter, from any fuel burning equipment shall:

(a) Be a function of maximum heat input and be determined from **Figure 1**, except that from existing fuel burning equipment utilizing wood residue, it shall be 0.2 grain, and from new fuel burning equipment utilizing wood residue, it shall be 0.1 grain per standard cubic foot of exhaust gas, corrected to 12 percent carbon dioxide;

(b) Not exceed Smoke Spot #2 for distillate fuel and #4 for residual fuel, measured by ASTM D2156-65, "Standard Method for Test for Smoke Density of the Flue Gases from Distillate Fuels".

(2) The maximum allowable emission of particulate matter from any refuse burning equipment shall be a function of the maximum heat input from the refuse only and shall be determined from **Figure 2**.

[NOTE: The Figure(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the office of the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0075; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-030-0510.

340-030-0520208-0620

Particulate Matter Size Standard

No person shall cause or permit the emission of any particulate matter which is larger than 250 microns in size provided such particulate matter does or will deposit upon the real property of another person.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0080; renumbered from OAR 340-030-0520.

340-030-0530-208-0630

Sulfur Dioxide Emission Standard

For any air contaminant source that may emit sulfur dioxide, no person shall cause or permit emission of sulfur dioxide in excess of 1,000 ppm from any air contamination source as measured in accordance with the Department's Source Test Manual, except those persons burning natural gas, liquefied petroleum gas, or fuel conforming to provisions of rules relating to the sulfur content of fuels. This rule applies to sources installed, constructed, or modified after October 1, 1970.

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the office of the agency.]

Stat. Auth.: ORS 468 & ORS 468A.

Stats. Implemented: ORS 468.020 & ORS 468A.025.

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0085; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-030-0530.

340-030-0540208-0640

Odors

(1) No person shall cause or permit the emission of odorous matter in such manner as to contribute to a condition of air pollution, or exceed:

(a) A Scentometer No. 0 odor strength or equivalent dilution in residential and commercial areas;

(b) A Scentometer No. 2 odor strength or equivalent dilution in all other land use areas;

(c) Scentometer Readings: Scentometer No. and Concentration Range – No. of Thresholds, respectively:

(A) 0 — 1 to 2;

(B) 1 — 2 to 8;

(C) 2 — 8 to 32;

(D) 3 — 32 to 128.

(2) A violation of this rule shall have occurred when two measurements made within a period of one hour, separated by at least 15 minutes, off the property surrounding the air contaminant source exceeds the limitations of section (1) of this rule.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0090; renumbered from OAR 340-030-0540.

Benton, Linn, Marion, Polk, and Yamhill Counties

340-030-0600-208-0650

Application

OAR ~~340-030-0600~~208-0650 through ~~340-030-0620~~208-0670 shall apply in Benton, Linn, Marion, Polk and Yamhill Counties.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 109, f. 3-15-76, ef. 3-25-76; DEQ 11-1982, f. & ef. 6-18-82; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-029-0001; renumbered from OAR 340-030-0600.

340-030-0610208-0660

Odors

(1) Unless otherwise regulated by specific odor regulation or standard, no person shall cause or permit the emission of odorous matter:

(a) In such a manner as to cause a public nuisance; or

(b) That occurs for sufficient duration or frequency so that two measurements made within a period of one hour, separated by at least 15 minutes, off the property surrounding the emission point, that is equal to or greater than a Scentometer No. 0 or equivalent dilutions in areas used for residential, recreational, educational, institutional, hotel, retail sales or other similar purposes.

(2) In all land use areas other than those specified in subsection (1)(b) of this rule, release of odorous matter shall be prohibited if equal to or greater than a Scentometer No. 2 odor strength, or equivalent dilutions.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 11-1982, f. & ef. 6-18-82; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-029-0011; renumbered from OAR 340-030-0610.

340-030-0620208-0670

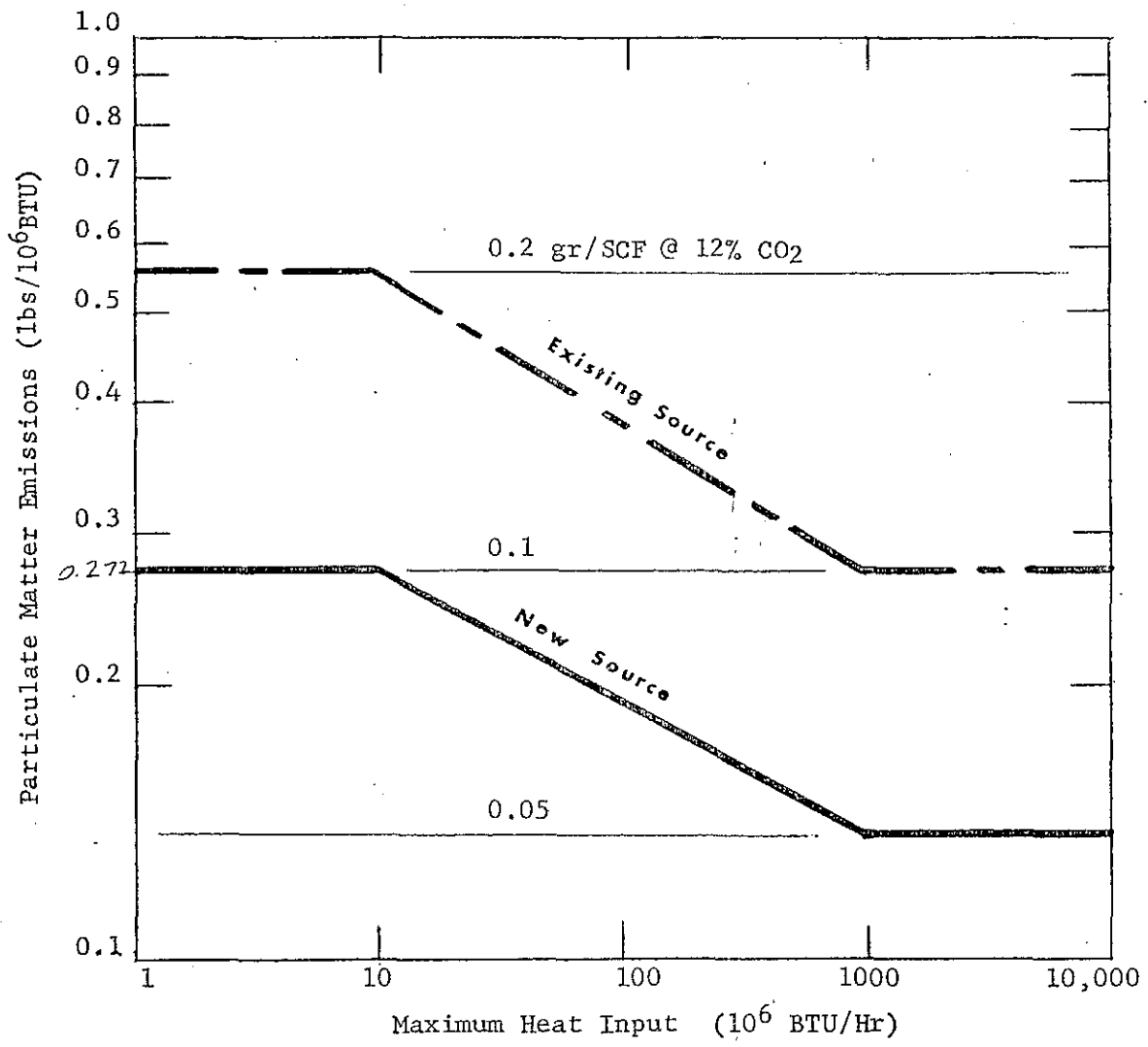
Particulate Matter Size Standard

No person shall cause or permit the emission of any particulate matter which is larger than 250 microns in size provided such particulate matter does or will deposit upon real property of another person.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

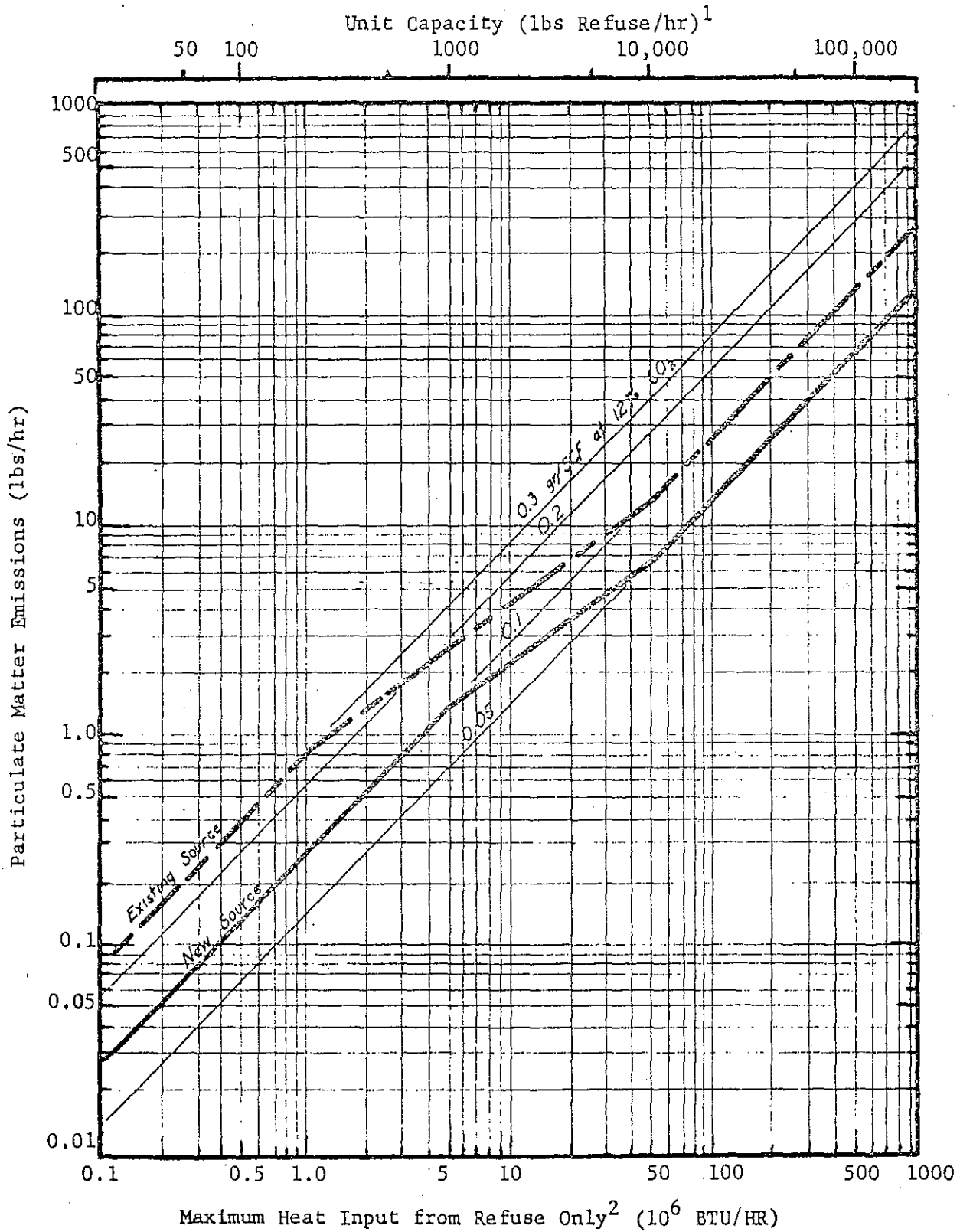
Hist.: DEQ 11-1982, f. & ef. 6-18-82; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-029-0030; renumbered from OAR 340-030-0620.



PARTICULATE MATTER EMISSION STANDARDS FOR FUEL BURNING EQUIPMENT

OAR 340-208-0610
 Figure 1

PARTICULATE MATTER EMISSION STANDARDS FOR REFUSE BURNING EQUIPMENT



¹ For refuse having heat content of 5000 BTU/lb as fired

² Excluding any auxiliary heat

DIVISION 210

STATIONARY SOURCE NOTIFICATION REQUIREMENTS

Rules Applicable to All Stationary Sources

340-028-0200210-0010

Applicability

~~Unless these rules specify otherwise, OAR 340-028-0200 through 340-028-0820~~ This division shall apply to all stationary sources in the state.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-0200.

340-210-0020

Definitions

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

[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

Stats. Implemented: ORS 468A.025

Hist.:

Registration

340-028-0500210-0100

Registration in General

Any air contaminant source not subject to ~~the Air Contaminant Discharge Permits rules, OAR 340-028-1700 through 340-028-1790~~ division 216, or ~~the federal Oregon Title V Operating Permits program rules, OAR 340-028-2100 through 340-028-2320~~ division 218, shall register with the Department upon request pursuant to OAR 340-028-0500210-0100 through 340-028-0520210-0120.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0005; renumbered from OAR 340-028-0500.

340-028-0510210-0110

Registration Requirements

- (1) Registration shall be completed within 30 days following the mailing date of the request by the Department.
- (2) Registration shall be made on forms furnished by the Department and completed by the owner, lessee of the source, or agent.
- (3) The following information shall be reported by registrants:
 - (a) Name, address, and nature of business;
 - (b) Name of local person responsible for compliance with these rules;
 - (c) Name of person authorized to receive requests for data and information;
 - (d) A description of the production processes and a related flow chart;
 - (e) A plot plan showing the location and height of all air contaminant sources. The plot plan shall also indicate the nearest residential or commercial property;
 - (f) Type and quantity of fuels used;
 - (g) Amount, nature, and duration of air contaminant emissions;
 - (h) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;

(i) Any other information requested by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.
Stat. Auth.: ORS 468.020 & ORS 468A.310
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0010;
renumbered from OAR 340-028-0510.

340-028-0520210-0120

Re-Registration

(1) Once a year upon the annual date of registration, a person responsible for an air contaminant source shall reaffirm in writing the correctness and current status of the information furnished to the Department.

(2) Any change in any of the factual data reported under OAR 340-028-0510210-0110(3) shall be reported to the Department, at which time re-registration may be required on forms furnished by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.
Stat. Auth.: ORS 468.020 & ORS 468A.310
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0015;
renumbered from OAR 340-028-0520.

Notice of Construction and Approval of Plans

340-028-0800210-0200

Requirement

(1) No person shall construct, install, or establish a new source of air contaminant emission without first notifying the Department in writing if such new source is:

- (a) Of any class listed in OAR 340-028-0810210-0210(1); and
- (b) Not under the jurisdiction of a regional air quality control authority.

(2) New construction, installation or establishment includes:

- (a) Addition to or enlargement or replacement of an air contamination source;
- (b) A major alteration or modification of an air contamination source that may significantly affect the emission of air contamination.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.
Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0020;
DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-0800.

340-028-0810210-0210

Scope

(1) Except as provided in section (2) of this rule, OAR 340-028-0800210-0200 through 340-028-0820210-0220 shall apply to the following classes of sources of air contaminant emission:

- (a) Air pollution control equipment;
- (b) Fuel burning equipment rated at 400,000 BTU per hour or greater;
- (c) Refuse burning equipment rated at 50 pounds per hour or greater;
- (d) Open burning operations;
- (e) Process equipment having emission to the atmosphere;
- (f) Such other sources as the Department may determine to be potentially significant sources of air contamination.

(2) OAR 340-028-0800210-0200 through 340-028-0820210-0220 shall not apply to Oregon Title V Operating Permit program sources.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]
Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & ORS 468A

340-028-0820210-0220

Procedure

(1) Notice of Construction. Any person intending to construct, install, or establish a new source of air contaminant emissions of a class listed in OAR ~~340-028-0810~~210-0210(1) shall notify the Department in writing on a form supplied by the Department.

(2) Submission of Information. The Department may within 30 days of receipt of a Notice of Construction require any or all of the following information to be submitted:

- (a) Name, address, and nature of business;
- (b) Name of local person responsible for compliance with these rules;
- (c) Name of person authorized to receive requests for data and information;
- (d) A description of the production processes and a related flow chart;
- (e) A plot plan showing the location and height of all air contaminant sources. The plot plan shall also indicate the nearest residential or commercial property;
- (f) Type and quantity of fuels used;
- (g) Amount, nature and duration of air contaminant emissions;
- (h) Plans and specifications for air pollution control equipment and facilities and their relationship to the production process;
- (i) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;
- (j) Any information on pollution prevention measures and cross-media impacts the person wants the Department to consider in determining applicable control requirements and evaluating compliance methods;
- (k) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements under OAR ~~340-028-0620~~226-0120(1) and (2);
- (l) Amount and method of refuse disposal; and
- (m) Corrections and revisions to the plans and specifications to insure compliance with applicable rules, orders and statutes.

(3) Notice of Approval:

(a) The Department shall upon determining that the proposed construction is in the opinion of the Department in accordance with the provisions of applicable rules, order, and statutes, notify the person concerned that construction may proceed;

(b) A Notice of Approval to proceed with construction shall not relieve the owner of the obligation of complying with applicable emission standards and orders.

(4) Order Prohibiting Construction:

(a) If within 60 days of receipt of the items set forth in section (2) of this rule the Director determines that the proposed construction is not in accordance with applicable statutes, rules, regulations and orders, the Director shall issue an order prohibiting the construction, installation or establishment of the air contamination source. Said order is to be forwarded to the owner by certified mail;

(b) Failure to issue such order within the time prescribed herein shall be considered a determination that the proposed construction, installation, or establishment may proceed, provided that it is in accordance with plans, specifications, and any corrections or revisions thereto, or other information, if any, previously submitted, and provided further that it shall not relieve the owner of the obligation of complying with applicable emission standards and orders.

(5) Hearing. Pursuant to law, a person against whom an order prohibiting construction is directed may within 20 days from the date of mailing of the order, demand a hearing. The demand shall be in writing, state the grounds for hearing, and be mailed to the Director of the Department. The hearing shall be conducted pursuant to the applicable provisions of ORS Chapter 183.

(6) Notice of Completion. Within 30 days after any person has constructed an air contamination source as defined under OAR ~~340-028-0810~~210-0210(1), that person shall so report in writing on a form furnished by the Department, stating the date of completion of construction and the date the source was or will be put in operation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 5-1989, f. 4-24-89, cert. ef. 5-1-89; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0030; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-0820.

DIVISION 212

STATIONARY SOURCE TESTING AND MONITORING

Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits or Oregon Title V Operating Permits

340-212-0010

Definitions

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

[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

Stats. Implemented: ORS 468A.025

Hist.:

Sampling, Testing and Measurement

340-028-0900212-0110

Applicability

OAR 340-028-0900212-0110 through 340-028-1520212-0160 apply to all stationary sources in the state that are required to obtain ACDPs under OAR 340-028-1720 or Oregon Title V Operating Permits under OAR 340-028-2110.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-0900.

Sampling, Testing and Measurement of Air Contaminant Emissions

340-028-1100212-0120

Program

- (1) As part of its coordinated program of air quality control and preventing and abating air pollution, the Department may:
 - (a) Require any person responsible for emissions of air contaminants to make or have made tests to determine the type, quantity, quality, and duration of the emissions from any air contamination source;
 - (b) Require full reporting of all test procedures and results furnished to the Department in writing and signed by the person or persons responsible for conducting the tests;
 - (c) Require continuous monitoring of specified air contaminant emissions and periodic regular reporting of the results of such monitoring.
- (2) At the request of the Department, an owner or operator of a source required to conduct emissions tests may be required to provide emission testing facilities as follows:
 - (a) Sampling ports, safe sampling platforms, and access to sampling platforms adequate for test methods applicable to such source; and
 - (b) Utilities for sampling and testing equipment.
- (3) Testing shall be conducted in accordance with the Department's **Source Sampling Manual (January 1992)**, the Department's **Continuous Monitoring Manual (January 1992)**, or an applicable EPA Reference Method unless the Department, where allowed under applicable federal requirements:
 - (a) Specifies or approves, in specific cases, minor changes in methodology;
 - (b) Approves the use of an equivalent method or alternative method which will provide adequate results;

(c) Waives the requirement for tests because the owner or operator of a source has demonstrated by other means to the Department's satisfaction that the affected facility is in compliance with applicable requirements; or

(d) Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020 0035;

DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-1100.

340-028-1110212-0130

Stack Heights and Dispersion Techniques

(1) **40 CFR Parts 51.100(ff) through 51.100(kk), 51.118, 51.160 through 51.166 (July 1, 1993)** are by this reference adopted and incorporated herein, concerning stack heights and dispersion techniques.

(2) In general, the rule prohibits the use of excessive stack height and certain dispersion techniques when calculating compliance with ambient air quality standards. The rule does not forbid the construction and actual use of excessively tall stacks, nor use of dispersion techniques; it only forbids their use in calculations as noted above.

(3) The rule has the following general applicability. With respect to the use of excessive stack height, stacks 65 meters high or greater, constructed after December 31, 1970, and major modifications to existing plants after December 31, 1970 with stacks 65 meters high or greater which were constructed before that date, are subject to this rule, with the exception that certain stacks at federally-owned, coal-fired steam electric generating units constructed under a contract awarded before February 8, 1974, are exempt. With respect to the use of dispersion techniques, any technique implemented after December 31, 1970, at any plant is subject to this rule. However, if the plant's total allowable emissions of sulfur dioxide are less than 5,000 tons per year, then certain dispersion techniques to increase final exhaust gas plume rise are permitted to be used when calculating compliance with ambient air quality standards for sulfur dioxide:

(a) Where found in the federal rule, the term "reviewing agency" means the Department, LRAPA, or the EPA, as applicable;

(b) Where found in the federal rule, the term "authority administering the State Implementation Plan" means Department, LRAPA, or EPA;

(c) The "procedures" referred to in **40 CFR 51.164** are the New Source Review procedures at the Department (~~OAR 340-028-1900 to 340-028-2000~~division 224) or at LRAPA (Title 38), and the review procedures for new, or modifications to, minor sources, at the Department (~~OAR 340-028-0800210-0200 to 340-028-0820210-0220, OAR 340-028-1700 to 340-028-1790~~ division 216) or at LRAPA (Title 34);

(d) Where "the state" or "state, or local control agency" is referred to in **40 CFR 51.118**, it means the Department or LRAPA;

(e) Where found in the federal rule, the terms "applicable state implementation plan" and "plan" refer to the programs and rules of the Department or LRAPA, as approved by the EPA, or any EPA-promulgated regulations (see **40 CFR Part 52, Subpart MM**).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 11-1986, f. & ef. 5-12-86; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0037;

DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-1110.

340-028-1120212-0140

Methods

(1) Any sampling, testing, or measurement performed under this regulation shall conform to methods contained in the **Department's Source Sampling Manual** or to recognized applicable standard methods approved in advance by the Department.

(2) The Department may approve any alternative method of sampling provided it finds that the proposed method is satisfactory and complies with the intent of these regulations and is at least equivalent to the uniform recognized procedures in objectivity and reliability, and is demonstrated to be reproducible, selective, sensitive, accurate and applicable to the program.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.
[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]
Stat. Auth.: ORS 468.020 & ORS 468A.310
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 15, f. 6-12-70, ef. 9-11-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0040;
renumbered from OAR 340-028-1120.

340-028-1130212-0150

Department Testing

The Department, instead of requesting tests and sampling of emissions from the person responsible for an air contamination source, may conduct such tests alone or in conjunction with said person. If the testing or sampling is performed by the Department, a copy of the results shall be provided to the person responsible for the air contamination source.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.
Stat. Auth.: ORS 468.020 & ORS 468A.310
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0045;
renumbered from OAR 340-028-1130.

340-028-1140212-0160

Records; Maintaining and Reporting

(1) Upon notification from the Director all persons owning or operating a source within the state shall keep and maintain written records of the nature, type and amounts of emissions from such source and other information as may be required by the Director to determine whether such is in compliance with applicable emission rules, limitations or other control measures.

(2) The records shall be prepared in the form of a report and submitted to the Department on a semi-annual basis, or more frequent basis if requested in writing by the Department, commencing with the first full semi-annual period after the Director's notification to such persons owning or operating a stationary air contaminant source of these record-keeping requirements. Except as may be otherwise provided by rule, semi-annual periods are January 1 to June 30, July 1 to December 31. A more frequent basis for reporting may be required due to noncompliance or to protect human health or the environment.

(3) The reports required by this rule shall be completed on forms approved by the Department and shall be submitted within 30 days after the end of each reporting period.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.
Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 44(Temp), f. & ef. 5-5-72; DEQ 48, f. 9-20-72, ef. 10-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93;
Renumbered from 340-020-0046; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-1140.

Compliance Assurance Monitoring

340-028-1200212-0200

Applicability

(1) General applicability. Except for backup utility units that are exempt under subsection (2)(b) of this rule, the requirements of OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280 shall apply to a pollutant-specific emissions unit at a major source that is required to obtain an Oregon Title V Operating Permit if the unit satisfies all of the following criteria:

- (a) The unit is subject to an emission limitation or standard for the applicable regulated air pollutant (or a surrogate thereof), other than an emission limitation or standard that is exempt under subsection (2)(a);
- (b) The unit uses a control device to achieve compliance with any such emission limitation or standard; and
- (c) The unit has potential pre-control device emissions of the applicable regulated air pollutant that are equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source. For purposes of this subsection, "potential pre-control device emissions" shall have the same meaning as "potential to emit," as defined in ~~340-028-0110~~200-0020, except that emission reductions achieved by the applicable control device shall not be taken into account.

(2) Exemptions:

(a) Exempt emission limitations or standards. The requirements of OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280 shall not apply to any of the following emission limitations or standards:

(A) Emission limitations or standards proposed by the Administrator after November 15, 1990 pursuant to section 111 or 112 of the Act;

(B) Stratospheric ozone protection requirements under title VI of the Act;

(C) Acid Rain Program requirements pursuant to sections 404, 405, 406, 407(a), 407(b), or 410 of the Act;

(D) Emission limitations or standards or other applicable requirements that apply solely under an emissions trading program approved or promulgated by the Administrator under the Act that allows for trading emissions within a source or between sources;

(E) An emissions cap that meets the requirements specified in 40 CFR 70.4(b)(12), 71.6(a)(13)(iii), or OAR 340-028-1000 through 340-028-1060 division 222 (Plant Site Emission Limits);

(F) Emission limitations or standards for which an Oregon Title V Operating Permit specifies a continuous compliance determination method, as defined in OAR 340-028-0110200-0020. The exemption provided in this subsection shall not apply if the applicable compliance method includes an assumed control device emission reduction factor that could be affected by the actual operation and maintenance of the control device (such as a surface coating line controlled by an incinerator for which continuous compliance is determined by calculating emissions on the basis of coating records and an assumed control device efficiency factor based on an initial performance test; in this example, OAR 340-028-1200212-0200 through 340-028-1280212-0280 would apply to the control device and capture system, but not to the remaining elements of the coating line, such as raw material usage).

(b) Exemption for backup utility power emissions units. The requirements of OAR 340-028-1200212-0200 through 340-028-1280212-0280 shall not apply to a utility unit, as defined in 40 CFR 72.2, that is municipally-owned if the owner or operator provides documentation in an Oregon Title V Operating Permit application that:

(A) The utility unit is exempt from all monitoring requirements in 40 CFR part 75 (including the appendices thereto);

(B) The utility unit is operated for the sole purpose of providing electricity during periods of peak electrical demand or emergency situations and will be operated consistent with that purpose throughout the Oregon Title V Operating Permit term. The owner or operator shall provide historical operating data and relevant contractual obligations to document that this criterion is satisfied; and

(C) The actual emissions from the utility unit, based on the average annual emissions over the last three calendar years of operation (or such shorter time period that is available for units with fewer than three years of operation) are less than 50 percent of the amount in tons per year required for a source to be classified as a major source and are expected to remain so.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-1200.

340-028-1210212-0210

Monitoring Design Criteria

(1) General criteria. To provide a reasonable assurance of compliance with emission limitations or standards for the anticipated range of operations at a pollutant-specific emissions unit, monitoring under OAR 340-028-1200212-0200 through 340-028-1280212-0280 shall meet the following general criteria:

(a) The owner or operator shall design the monitoring to obtain data for one or more indicators of emission control performance for the control device, any associated capture system and, if necessary to satisfy subsection (1)(b) of this rule, processes at a pollutant-specific emissions unit. Indicators of performance may include, but are not limited to, direct or predicted emissions (including visible emissions or opacity), process and control device parameters that affect control device (and capture system) efficiency or emission rates, or recorded findings of inspection and maintenance activities conducted by the owner or operator;

(b) The owner or operator shall establish an appropriate range(s) or designated condition(s) for the selected indicator(s) such that operation within the ranges provides a reasonable assurance of ongoing compliance with emission limitations or standards for the anticipated range of operating conditions. Such range(s) or condition(s) shall reflect the proper operation and maintenance of the control device (and associated capture system), in accordance with applicable design properties, for minimizing emissions over the anticipated range of operating conditions at least to the level required to achieve compliance with the applicable requirements. The reasonable assurance of compliance will be assessed by maintaining performance within the indicator range(s) or designated condition(s). The ranges shall be established in accordance with the design and performance requirements in this rule and documented in accordance with the requirements in OAR 340-028-1220212-0220.

If necessary to assure that the control device and associated capture system can satisfy this criterion, the owner or operator shall monitor appropriate process operational parameters (such as total throughput where necessary to stay within the rated capacity for a control device). In addition, unless specifically stated otherwise by an applicable requirement, the owner or operator shall monitor indicators to detect any bypass of the control device (or capture system) to the atmosphere, if such bypass can occur based on the design of the pollutant-specific emissions unit;

(c) The design of indicator ranges or designated conditions may be:

(A) Based on a single maximum or minimum value if appropriate (e.g., maintaining condenser temperatures a certain number of degrees below the condensation temperature of the applicable compound(s) being processed) or at multiple levels that are relevant to distinctly different operating conditions (e.g., high versus low load levels);

(B) Expressed as a function of process variables (e.g., an indicator range expressed as minimum to maximum pressure drop across a venturi throat in a particulate control scrubber);

(C) Expressed as maintaining the applicable parameter in a particular operational status or designated condition (e.g., position of a damper controlling gas flow to the atmosphere through a by-pass duct);

(D) Established as interdependent between more than one indicator.

(2) Performance criteria. The owner or operator shall design the monitoring to meet the following performance criteria:

(a) Specifications that provide for obtaining data that are representative of the emissions or parameters being monitored (such as detector location and installation specifications, if applicable);

(b) For new or modified monitoring equipment, verification procedures to confirm the operational status of the monitoring prior to the date by which the owner or operator must conduct monitoring under OAR 340-028-1200212-0200 through 340-028-1280212-0280 as specified in OAR 340-028-1250212-0250(1). The owner or operator shall consider the monitoring equipment manufacturer's requirements or recommendations for installation, calibration, and start-up operation;

(c) Quality assurance and control practices that are adequate to ensure the continuing validity of the data. The owner or operator shall consider manufacturer recommendations or requirements applicable to the monitoring in developing appropriate quality assurance and control practices;

(d) Specifications for the frequency of conducting the monitoring, the data collection procedures that will be used (e.g., computerized data acquisition and handling, alarm sensor, or manual log entries based on gauge readings), and, if applicable, the period over which discrete data points will be averaged for the purpose of determining whether an excursion or exceedance has occurred:

(A) At a minimum, the owner or operator shall design the period over which data are obtained and, if applicable, averaged consistent with the characteristics and typical variability of the pollutant-specific emissions unit (including the control device and associated capture system). Such intervals shall be commensurate with the time period over which a change in control device performance that would require actions by owner or operator to return operations within normal ranges or designated conditions is likely to be observed;

(B) For all pollutant-specific emissions units with the potential to emit, calculated including the effect of control devices, the applicable regulated air pollutant in an amount equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source, for each parameter monitored, the owner or operator shall collect four or more data values equally spaced over each hour and average the values, as applicable, over the applicable averaging period as determined in accordance with paragraph (2)(d)(A) of this rule. The Department may approve a reduced data collection frequency, if appropriate, based on information presented by the owner or operator concerning the data collection mechanisms available for a particular parameter for the particular pollutant-specific emissions unit (e.g., integrated raw material or fuel analysis data, noninstrumental measurement of waste feed rate or visible emissions, use of a portable analyzer or an alarm sensor);

(C) For other pollutant-specific emissions units, the frequency of data collection may be less than the frequency specified in paragraph (2)(d)(B) of this rule but the monitoring shall include some data collection at least once per 24-hour period (e.g., a daily inspection of a carbon adsorber operation in conjunction with a weekly or monthly check of emissions with a portable analyzer).

(3) Evaluation factors. In designing monitoring to meet the requirements in sections (1) and (2) of this rule, the owner or operator shall take into account site-specific factors including the applicability of existing monitoring equipment and procedures, the ability of the monitoring to account for process and control device operational variability, the reliability and attitude built into the control technology, and the level of actual emissions relative to the compliance limitation.

(4) Special criteria for the use of continuous emission, opacity or predictive monitoring systems:

(a) If a continuous emission monitoring system (CEMS), continuous opacity monitoring system (COMS) or predictive emission monitoring system (PEMS) is required pursuant to other authority under the Act or state or local law, the owner or operator shall use such system to satisfy the requirements of OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280;

(b) The use of a CEMS, COMS, or PEMS that satisfies any of the following monitoring requirements shall be deemed to satisfy the general design criteria in sections (1) and (2) of this rule, provided that a COMS may be subject to the criteria for establishing indicator ranges under section (1) of this rule:

(A) Section 51.214 and appendix P of 40 CFR part 51;

(B) Section 60.13 and appendix B of 40 CFR part 60;

(C) Section 63.8 and any applicable performance specifications required pursuant to the applicable subpart of 40 CFR part 63;

(D) 40 CFR part 75;

(E) Subpart H and appendix IX of 40 CFR part 266; or

(F) If an applicable requirement does not otherwise require compliance with the requirements listed in the preceding paragraphs (4)(b)(A) through (E) of this rule, comparable requirements and specifications established by the Department.

(c) The owner or operator shall design the monitoring system subject to this section (4) to:

(A) Allow for reporting exceedances (or excursions if applicable to a COMS used to assure compliance with a particulate matter standard), consistent with any period for reporting of exceedances in an underlying requirement. If an underlying requirement does not contain a provision for establishing an averaging period for the reporting of exceedances or excursions, the criteria used to develop an averaging period in (2)(d) of this rule shall apply; and

(B) Provide an indicator range consistent with section (1) of this rule for a COMS used to assure compliance with a particulate matter standard. If an opacity standard applies to the pollutant-specific emissions unit, such limit may be used as the appropriate indicator range unless the opacity limit fails to meet the criteria in section (1) of this rule after considering the type of control device and other site-specific factors applicable to the pollutant-specific emissions unit.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-1210.

~~340-028-1220~~212-0220

Submittal Requirements

(1) The owner or operator shall submit to the Department monitoring that satisfies the design requirements in OAR ~~340-028-1210~~212-0210. The submission shall include the following information:

(a) The indicators to be monitored to satisfy OAR ~~340-028-1210~~212-0210(1)(a) and (b);

(b) The ranges or designated conditions for such indicators, or the process by which such indicator ranges or designated conditions shall be established;

(c) The performance criteria for the monitoring to satisfy OAR ~~340-028-1210~~212-0210(2); and

(d) If applicable, the indicator ranges and performance criteria for a CEMS, COMS or PEMS pursuant to OAR ~~340-028-1210~~212-0210(4).

(2) As part of the information submitted, the owner or operator shall submit a justification for the proposed elements of the monitoring. If the performance specifications proposed to satisfy OAR ~~340-028-1210~~212-0210(2)(b) or (c) include differences from manufacturer recommendations, the owner or operator shall explain the reasons for the differences between the requirements proposed by the owner or operator and the manufacturer's recommendations or requirements. The owner or operator also shall submit any data supporting the justification, and may refer to generally available sources of information used to support the justification (such as generally available air pollution engineering manuals, or EPA or Department publications on appropriate monitoring for various types of control devices or capture systems). To justify the appropriateness of the monitoring elements proposed, the owner or operator may rely in part on existing applicable requirements that establish the monitoring for the applicable pollutant-specific emissions unit or a similar unit. If an owner or operator relies on presumptively acceptable monitoring, no further justification for the appropriateness of that monitoring should be necessary other than an explanation of the applicability of such monitoring to the unit in question, unless data or information is brought forward to rebut the assumption. Presumptively acceptable monitoring includes:

(a) Presumptively acceptable or required monitoring approaches, established by the Department in a rule that constitutes part of the applicable implementation plan required pursuant to title I of the Act, that are designed to achieve compliance with OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280 for particular pollutant-specific emissions units;

(b) Continuous emission, opacity or predictive emission monitoring systems that satisfy applicable monitoring requirements and performance specifications as specified in OAR ~~340-028-1210~~212-0210(d);

(c) Excepted or alternative monitoring methods allowed or approved pursuant to 40 CFR part 75;

(d) Monitoring included for standards exempt from OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280 pursuant to OAR ~~340-028-1200~~212-0200(2)(a)(A) through (F) to the extent such monitoring is applicable to the performance of the control device (and associated capture system) for the pollutant-specific emissions unit; and

(e) Presumptively acceptable monitoring identified in guidance by EPA.

(3)(a) Except as provided in section (4) of this rule, the owner or operator shall submit control device (and process and capture system, if applicable) operating parameter data obtained during the conduct of the applicable compliance or performance test conducted under conditions specified by the applicable rule. If the applicable rule does not specify testing conditions or only partially specifies test conditions, the performance test generally shall be conducted under conditions representative of maximum emissions potential under anticipated operating conditions at the pollutant-specific emissions unit. Such data may be supplemented, if desired, by engineering assessments and manufacturer's recommendations to justify the indicator ranges (or, if applicable, the procedures for establishing such indicator ranges). Emission testing is not required to be conducted over the entire indicator range or range of potential emissions;

(b) The owner or operator must document that no changes to the pollutant-specific emissions unit, including the control device and capture system, have taken place that could result in a significant change in the control system performance or the selected ranges or designated conditions for the indicators to be monitored since the performance or compliance tests were conducted.

(4) If existing data from unit-specific compliance or performance testing specified in section (3) of this rule are not available, the owner or operator:

(a) Shall submit a test plan and schedule for obtaining such data in accordance with section (5) of this rule; or

(b) May submit indicator ranges (or procedures for establishing indicator ranges) that rely on engineering assessments and other data, provided that the owner or operator demonstrates that factors specific to the type of monitoring, control device, or pollutant-specific emissions unit make compliance or performance testing unnecessary to establish indicator ranges at levels that satisfy the criteria in OAR ~~340-028-1210~~212-0210(1).

(5) If the monitoring submitted by the owner or operator requires installation, testing, or other necessary activities prior to use of the monitoring for purposes of OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280, the owner or operator shall include an implementation plan and schedule for installing, testing and performing any other appropriate activities prior to use of the monitoring. The implementation plan and schedule shall provide for use of the monitoring as expeditiously as practicable after approval of the monitoring in the Oregon Title V Operating Permit pursuant to OAR ~~340-028-1240~~212-0240, but in no case shall the schedule for completing installation and beginning operation of the monitoring exceed 180 days after approval of the permit.

(6) If a control device is common to more than one pollutant-specific emissions unit, the owner or operator may submit monitoring for the control device and identify the pollutant-specific emissions units affected and any process or associated capture device conditions that must be maintained or monitored in accordance with OAR ~~340-028-1210~~212-0210(1) rather than submit separate monitoring for each pollutant-specific emissions unit.

(7) If a single pollutant-specific emissions unit is controlled by more than one control device similar in design and operation, the owner or operator may submit monitoring that applies to all the control devices and identify the control devices affected and any process or associated capture device conditions that must be maintained or monitored in accordance with OAR ~~340-028-1210~~212-0210(1) rather than submit a separate description of monitoring for each control device.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-1220.

~~340-028-1230~~212-0230

Deadlines For Submittals

(1) Large pollutant-specific emissions units. For all pollutant-specific emissions units with the potential to emit (taking into account control devices to the extent appropriate under the definition of this term in OAR 340-~~028-0110~~200-0020) the applicable regulated air pollutant in an amount equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source, the owner or operator shall submit the information required under OAR 340-~~028-1220~~212-0220 at the following times:

(a) On or after April 20, 1998, the owner or operator shall submit information as part of an application for an initial Oregon Title V Operating Permit if, by that date, the application either:

(A) Has not been filed; or

(B) Has not yet been determined to be complete by the Department.

(b) On or after April 20, 1998, the owner or operator shall submit information as part of an application for a significant permit revision under OAR 340-~~028-2160~~218-0080, but only with respect to those pollutant-specific emissions units for which the proposed permit revision is applicable;

(c) The owner or operator shall submit any information not submitted under the deadlines set forth in subsections (1)(a) and (b) of this rule as part of the application for the renewal of an Oregon Title V Operating Permit.

(2) Other pollutant-specific emissions units. For all other pollutant-specific emissions units subject to OAR 340-~~028-1200~~212-0220 through 340-~~028-1280~~212-0280 and not subject to section (1) of this rule, the owner or operator shall submit the information required under OAR 340-~~028-1220~~212-0220 as part of an application for a renewal of an Oregon Title V Operating Permit.

(3) The effective date for the requirement to submit information under OAR 340-~~028-1220~~212-0220 shall be as specified pursuant to sections (1) and (2) of this rule and a permit reopening to require the submittal of information under this rule shall not be required pursuant to OAR 340-~~028-2280~~218-0200(1)(a)(A), provided, however, that, if an Oregon Title V Operating Permit is reopened for cause by EPA or the Department pursuant to OAR 340-~~028-2280~~218-0200(1)(a)(C), (D), or (E), the applicable agency may require the submittal of information under this rule for those pollutant-specific emissions units that are subject to OAR 340-~~028-1200~~212-0200 through 340-~~028-1280~~212-0280 and that are affected by the permit reopening.

(4) Prior to approval of monitoring that satisfies OAR 340-~~028-1200~~212-0200 through 340-~~028-1280~~212-0280, the owner or operator is subject to the requirements of OAR 340-~~028-2130~~218-0050(3)(a)(C).

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-1230.

~~340-028-1240~~212-0240

Approval of Monitoring

(1) Based on an application that includes the information submitted in accordance with OAR 340-~~028-1230~~212-0230, the Department shall act to approve the monitoring submitted by the owner or operator by confirming that the monitoring satisfies the requirements in OAR 340-~~028-1210~~212-0210.

(2) In approving monitoring under OAR 340-~~028-1200~~212-0200 through 340-~~028-1280~~212-0280, the Department may condition the approval on the owner or operator collecting additional data on the indicators to be monitored for a pollutant-specific emissions unit, including required compliance or performance testing, to confirm the ability of the monitoring to provide data that are sufficient to satisfy the requirements of OAR 340-~~028-1200~~212-0200 through 340-~~028-1280~~212-0280 and to confirm the appropriateness of an indicator range(s) or designated condition(s) proposed to satisfy OAR 340-~~028-1210~~212-0210(1)(b) and (c) and consistent with the schedule in OAR 340-~~028-1220~~212-0220(4).

(3) If the Department approves the proposed monitoring, the Department shall establish one or more permit terms or conditions that specify the required monitoring in accordance with OAR 340-~~028-2130~~218-0050(3)(a). At a minimum, the permit shall specify:

(a) The approved monitoring approach that includes all of the following:

(A) The indicator(s) to be monitored (such as temperature, pressure drop, emissions, or similar parameter);

(B) The means or device to be used to measure the indicator(s) (such as temperature measurement device, visual observation, or CEMS); and

(C) The performance requirements established to satisfy OAR 340-~~028-1210~~212-0210(2) or (4), as applicable.

(b) The means by which the owner or operator will define an exceedance or excursion for purposes of responding to and reporting exceedances or excursions under OAR 340-~~028-1250~~212-0250 and 340-~~028-1260~~212-0260. The permit shall

specify the level at which an excursion or exceedance will be deemed to occur, including the appropriate averaging period associated with such exceedance or excursion. For defining an excursion from an indicator range or designated condition, the permit may either include the specific value(s) or condition(s) at which an excursion shall occur, or the specific procedures that will be used to establish that value or condition. If the latter, the permit shall specify appropriate notice procedures for the owner or operator to notify the Department upon any establishment or reestablishment of the value;

(c) The obligation to conduct the monitoring and fulfill the other obligations specified in OAR ~~340-028-1250~~212-0250 through ~~340-028-1270~~212-0270;

(d) If appropriate, a minimum data availability requirement for valid data collection for each averaging period, and, if appropriate, a minimum data availability requirement for the averaging periods in a reporting period.

(4) If the monitoring proposed by the owner or operator requires installation, testing or final verification of operational status, the Oregon Title V Operating Permit shall include an enforceable schedule with appropriate milestones for completing such installation, testing, or final verification consistent with the requirements in OAR ~~340-028-1220~~212-0220(5).

(5) If the Department disapproves the proposed monitoring, the following applies:

(a) The draft or final permit shall include, at a minimum, monitoring that satisfies the requirements of OAR ~~340-028-2130~~218-0050(3)(a)(C);

(b) The Department shall include in the draft or final permit a compliance schedule for the source owner to submit monitoring that satisfies OAR ~~340-028-1210~~212-0210 and ~~340-028-1220~~212-0220, but in no case shall the owner or operator submit revised monitoring more than 180 days from the date of issuance of the draft or final permit; and

(c) If the source owner or operator does not submit the monitoring in accordance with the compliance schedule as required in subsection (5)(b) of this rule or if the Department disapproves the monitoring submitted, the source owner or operator shall be deemed not in compliance with OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280, unless the source owner or operator successfully challenges the disapproval.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-1240.

~~340-028-1250~~ 212-0250

Operation of Approved Monitoring

(1) Commencement of operation. The owner or operator shall conduct the monitoring required under OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280 upon issuance of an Oregon Title V Operating Permit that includes such monitoring, or by such later date specified in the permit pursuant to OAR ~~340-028-1240~~212-0240(4).

(2) Proper maintenance. At all times, the owner or operator shall maintain the monitoring, including but not limited to, maintaining necessary parts for routine repairs of the monitoring equipment.

(3) Continued operation. Except for, as applicable, monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), the owner or operator shall conduct all monitoring in continuous operation (or shall collect data at all required intervals) at all times that the pollutant-specific emissions unit is operating. Data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities shall not be used for purposes of OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280, including data averages and calculations, or fulfilling a minimum data availability requirement, if applicable. The owner or operator shall use all the data collected during all other periods in assessing the operation of the control device and associated control system. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(4) Response to excursions or exceedances:

(a) Upon detecting an excursion or exceedance, the owner or operator shall restore operation of the pollutant-specific emissions unit (including the control device and associated capture system) to its normal or usual manner of operation as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions. The response shall include minimizing the period of any startup, shutdown or malfunction and taking any necessary corrective actions to restore normal operation and prevent the likely recurrence of the cause of an excursion or exceedance (other than those caused by excused startup or shutdown conditions). Such actions may include initial inspection and evaluation, recording that operations returned to normal without operator action (such as through response by a computerized distribution control

system), or any necessary follow-up actions to return operation to within the indicator range, designated condition, or below the applicable emission limitation or standard, as applicable;

(b) Determination of whether the owner or operator has used acceptable procedures in response to an excursion or exceedance will be based on information available, which may include but is not limited to, monitoring results, review of operation and maintenance procedures and records, and inspection of the control device, associated capture system, and the process;

(c) Documentation of need for improved monitoring. After approval of monitoring under OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280, if the owner or operator identifies a failure to achieve compliance with an emission limitation or standard for which the approved monitoring did not provide an indication of an excursion or exceedance while providing valid data, or the results of compliance or performance testing document a need to modify the existing indicator ranges or designated conditions, the owner or operator shall promptly notify the Department and, if necessary, submit a proposed modification to the Oregon Title V Operating Permit to address the necessary monitoring changes. Such a modification may include, but is not limited to, reestablishing indicator ranges or designated conditions, modifying the frequency of conducting monitoring and collecting data, or the monitoring of additional parameters.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-1250.

~~340-028-1260~~212-0260

Quality Improvement Plan (QIP) Requirements

(1) Based on the results of a determination made under OAR ~~340-028-1250~~212-0250(4)(b), the Administrator or the Department may require the owner or operator to develop and implement a QIP. Consistent with OAR ~~340-028-1240~~212-0240(3)(c), the Oregon Title V Operating Permit may specify an appropriate threshold, such as an accumulation of exceedances or excursions exceeding 5 percent duration of a pollutant-specific emissions unit's operating time for a reporting period, for requiring the implementation of a QIP. The threshold may be set at a higher or lower percent or may rely on other criteria for purposes of indicating whether a pollutant-specific emissions unit is being maintained and operated in a manner consistent with good air pollution control practices.

(2) Elements of a QIP:

(a) The owner or operator shall maintain a written QIP, if required, and have it available for inspection;

(b) The plan initially shall include procedures for evaluating the control performance problems and, based on the results of the evaluation procedures, the owner or operator shall modify the plan to include procedures for conducting one or more of the following actions, as appropriate:

(A) Improved preventive maintenance practices;

(B) Process operation changes;

(C) Appropriate improvements to control methods;

(D) Other steps appropriate to correct control performance;

(E) More frequent or improved monitoring (only in conjunction with one or more steps under paragraphs (A) through (D) above).

(3) If a QIP is required, the owner or operator shall develop and implement a QIP as expeditiously as practicable and shall notify the Department if the period for completing the improvements contained in the QIP exceeds 180 days from the date on which the need to implement the QIP was determined.

(4) Following implementation of a QIP, upon any subsequent determination pursuant to OAR ~~340-028-1250~~212-0250(4)(b) the Administrator or the Department may require that an owner or operator make reasonable changes to the QIP if the QIP is found to have:

(a) Failed to address the cause of the control device performance problems; or

(b) Failed to provide adequate procedures for correcting control device performance problems as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions.

(5) Implementation of a QIP shall not excuse the owner or operator of a source from compliance with any existing emission limitation or standard, or any existing monitoring, testing, reporting or recordkeeping requirement that may apply under federal, state, or local law, or any other applicable requirements under the Act.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-1260.

340-028-1270212-0270

Reporting and Recordkeeping Requirements

(1) General reporting requirements:

(a) On and after the date specified in OAR ~~340-028-1250212-0250~~(1) by which the owner or operator must use monitoring that meets the requirements of OAR ~~340-028-1200212-0200~~ through ~~340-028-1280212-0280~~, the owner or operator shall submit monitoring reports to the Department in accordance with OAR ~~340-028-2130218-0050~~(3)(c);

(b) A report for monitoring under OAR ~~340-028-1200212-0200~~ through ~~340-028-1280218-0280~~ shall include, at a minimum, the information required under OAR ~~340-028-2130218-0050~~(3)(c) and the following information, as applicable:

(A) Summary information on the number, duration and cause (including unknown cause, if applicable) of excursions or exceedances, as applicable, and the corrective actions taken;

(B) Summary information on the number, duration and cause (including unknown cause, if applicable) for monitor downtime incidents (other than downtime associated with zero and span or other daily calibration checks, if applicable); and

(C) A description of the actions taken to implement a QIP during the reporting period as specified in OAR ~~340-028-1260212-0260~~. Upon completion of a QIP, the owner or operator shall include in the next summary report documentation that the implementation of the plan has been completed and reduced the likelihood of similar levels of excursions or exceedances occurring.

(2) General recordkeeping requirements:

(a) The owner or operator shall comply with the recordkeeping requirements specified in OAR ~~340-028-2130218-0050~~(3)(b). The owner or operator shall maintain records of monitoring data, monitor performance data, corrective actions taken, any written quality improvement plan required pursuant to OAR ~~340-028-1260212-0260~~ and any activities undertaken to implement a quality improvement plan, and other supporting information required to be maintained under OAR ~~340-028-1200212-0200~~ through ~~340-028-1280212-0280~~ (such as data used to document the adequacy of monitoring, or records of monitoring maintenance or corrective actions);

(b) Instead of paper records, the owner or operator may maintain records on alternative media, such as microfilm, computer files, magnetic tape disks, or microfiche, provided that the use of such alternative media allows for expeditious inspection and review, and does not conflict with other applicable recordkeeping requirements.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-1270.

340-028-1280212-0280

Savings Provisions

(1) Nothing in OAR ~~340-028-1200212-0200~~ through ~~340-028-1280212-0280~~ shall:

(a) Excuse the owner or operator of a source from compliance with any existing emission limitation or standard, or any existing monitoring, testing, reporting or recordkeeping requirement that may apply under federal, state, or local law, or any other applicable requirements under the Act. The requirements of OAR ~~340-028-1200212-0200~~ through ~~340-028-1280212-0280~~ shall not be used to justify the approval of monitoring less stringent than the monitoring which is required under separate legal authority and are not intended to establish minimum requirements for the purpose of determining the monitoring to be imposed under separate authority under the Act, including monitoring in permits issued pursuant to title I of the Act. The purpose of OAR ~~340-028-1200212-0200~~ through ~~340-028-1280212-0280~~ is to require, as part of the issuance of a permit under title V of the Act, improved or new monitoring at those emissions units where monitoring requirements do not exist or are inadequate to meet the requirements of OAR ~~340-028-1200212-0200~~ through ~~340-028-1280212-0280~~;

(b) Restrict or abrogate the authority of the Administrator or the Department to impose additional or more stringent monitoring, recordkeeping, testing, or reporting requirements on any owner or operator of a source under any provision of the Act, including but not limited to sections 114(a)(1) and 504(b), or state law, as applicable;

(c) Restrict or abrogate the authority of the Administrator or Department to take any enforcement action under the Act for any violation of an applicable requirement or of any person to take action under section 304 of the Act.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-1280.

DIVISION 214

STATIONARY SOURCE REPORTING REQUIREMENTS

340-214-0010

Definitions

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

[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

Stats. Implemented: ORS 468A.025

Hist.:

Reporting

340-028-0200214-0100

Applicability

~~Unless these rules specify otherwise, OAR 340-028-0200214-0100 through 340-028-0820214-130 shall apply to all stationary sources in the state.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-0200.

340-028-0300214-0110

Request for Information

~~All stationary sources subject to OAR 340-028-0100 through 340-028-2550 shall provide in a reasonably timely manner any and all information that the Department may reasonably require for the purpose of regulating stationary sources. Such information may be required on a one-time, periodic, or continuous basis and may include, but is not limited to, information necessary to:~~

- ~~(1) Issue a permit and ascertain compliance or noncompliance with the permit terms and conditions;~~
- ~~(2) Ascertain applicability of any requirement;~~
- ~~(3) Ascertain compliance or noncompliance with any applicable requirement; and~~
- ~~(4) Incorporate monitoring, recordkeeping, reporting, and compliance certification requirements into a permit.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-0300.

340-028-0310214-0120

Enforcement

Notwithstanding any other provisions contained in any applicable requirement, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such applicable requirements.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.035

Stats. Implemented: ORS 468.100

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-0310.

340-028-0400214-0130

Information Exempt From Disclosure

(1) Pursuant to the provisions of ORS 192.410 to 192.505, all information submitted to the Department under ~~OAR 340-028-0100 through 340-028-2550~~ shall be presumed to be subject to inspection upon request by any person unless such information is determined to be exempt from disclosure pursuant to ~~OAR 340-028-0400~~ section (2) or (3) of this rule.

(2) If an owner or operator claims that any writing, as that term is defined in ORS 192.410, is confidential or otherwise exempt from disclosure, in whole or in part, the owner or operator shall comply with the following procedures:

(a) The writing shall be clearly marked with a request for exemption from disclosure. For a multi-page writing, each page shall be so marked.

(b) The owner or operator shall state the specific statutory provision under which it claims exemption from disclosure and explain why the writing meets the requirements of that provision.

(c) For writings that contain both exempt and non-exempt material, the proposed exempt material shall be clearly distinguishable from the non-exempt material. If possible, the exempt material shall be arranged so that it is placed on separate pages from the non-exempt material.

(3) For a writing to be considered exempt from disclosure as a "trade secret," it shall meet all of the following criteria:

(a) The information shall not be patented;

(b) It shall be known only to a limited number of individuals within a commercial concern who have made efforts to maintain the secrecy of the information;

(c) It shall be information which derives actual or potential economic value from not being disclosed to other persons; and

(d) It shall give its users the chance to obtain a business advantage over competitors not having the information.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047200-0040.~~]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1996, f. & cert. ef. 10-22-96; renumbered from OAR 340-028-0400.

Emission Statements for VOC and NO_x Sources in Ozone Non-attainment Areas

~~340-028-1500214-0200~~

Purpose and Applicability

(1) The purpose of these rules is to obtain data on actual emissions of VOCs and NO_x from sources in ozone nonattainment areas, in accordance with FCAA requirements, for the purpose of monitoring progress toward attainment of the ozone national ambient air quality standard.

(2) This rule shall apply to sources of VOC and NO_x in ozone nonattainment areas, with a PSEL equal to or greater than 25 tons per year for either pollutant, and to any source whose actual emissions are equal to or greater than 25 tons per year.

(3) For purposes of establishing consistent emission reporting requirements, owners or operators of VOC and NO_x sources already subject to ~~the Department's Interim Emission Fee Rules, OAR 340-028-2400 through 340-028-2550 and the Oregon Title V Operating Permit Rules Fees, OAR 340-028-2560 through 2740~~ division 220, and electing to pay fees based on actual emissions shall report emission data to the Department, utilizing procedures identified in those rules to calculate actual VOC and NO_x emissions, to the extent applicable. Owners or operators of other sources shall use current and applicable emission factors and actual production data to estimate and report actual emissions.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047200-0040.~~]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0450; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-1500.

~~340-028-1510214-0210~~

Requirements

(1) Owners or operators of VOC and NO_x sources subject to ~~this rule~~ OAR 340-214-0200 through 340-214-0220 shall annually submit data on the actual average emissions during the ozone season to the Department. Emission Statements submitted by the owner or operator to the Department shall contain the following information:

(a) Certification that the information contained in the statement is accurate to the best knowledge of the certifying individual;

(b) Source identification information: full name, physical location, mailing address of the facility, and permit number;

(c) Emissions information:

(A) Estimated actual VOC and/or NO_x emissions for those emissions equal to or greater than 25 tons per year, on an average weekday basis during the preceding year's ozone season, by source category; and

(B) Calendar year for the ozone season; and

(C) Each emission factor used and reference source for the emission factor, if applicable, or indicate other estimation method or procedure used to calculate emissions (e.g., material balance, source test, or continuous monitoring).

(2) Owners or operators of sources subject to these rules shall keep records at the plant site of the information used to calculate actual emissions pursuant to these rules. These records shall contain all applicable operating data, process rate data, and control equipment efficiency information and other information used to calculate or estimate actual emissions, and shall be available for the Department's review, or submitted upon request. Such records shall be kept by the owner or operator for three calendar years after submittal of the emission statement.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047200-0040.~~]

Stat. Auth.: ORS468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0470; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-1510.

~~340-028-1520~~ 340-214-0220

Submission of Emission Statement

The owner or operator of any facility meeting the applicability requirements stated in OAR ~~340-028-1500~~ 340-214-0200 through 340-214-0220 shall submit annual Emission Statements to the Department beginning in 1993. The Emission Statement for the preceding calendar year is due to the Department no later than the due date for the annual permit report specified in the source's ACDP or Oregon Title V Operating Permit.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted by the EQC under OAR ~~340-020-0047200-0040.~~]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0480; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-1520.

Excess Emissions and Emergency Provision

~~340-028-1400~~ 340-214-0300

Purpose and Applicability

Emissions of air contaminants in excess of applicable standards or permit conditions are considered unauthorized and subject to enforcement action, pursuant to OAR ~~340-028-1410~~ 340-214-0300 through 340-028-1460 340-214-0360. OAR ~~340-028-1400~~ 340-214-0300 through 340-028-1460 340-214-0360 apply to any source which emits air contaminants in excess of any applicable air quality rule or permit condition resulting from the breakdown of air pollution control equipment or operating equipment, process upset, startup, shutdown, or scheduled maintenance. The purpose of these rules is to:

(1) Require that, where applicable, all excess emissions be reported by sources to the Department immediately;

(2) Require sources to submit information and data regarding conditions which resulted or could result in excess emissions;

(3) Identify criteria to be used by the Department for determining whether enforcement action will be taken against an excess emission; and

(4) Provide sources an affirmative defense to enforcement when noncompliance with technology-based emission limits is due to an emergency pursuant to OAR ~~340-028-1460~~214-0360.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; Renumbered from 340-021-0065; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0350; renumbered from OAR 340-028-1400.

~~340-028-1410~~214-0310

Planned Startup and Shutdown

(1) This rule applies to any source where startup or shutdown of a production process or system may result in excess emissions; and

(a) Which is a major source; or

(b) Which is in a non-attainment or maintenance area for the pollutant which may constitute excess emissions; or

(c) From which the Department requires the application in section (2) of this rule.

(2) The permittee shall obtain prior Department authorization of startup/shutdown procedures that will be used to minimize excess emissions. Application for approval of new procedures or modifications to existing procedures shall be submitted and received by the Department in writing at least 72 hours prior to the first occurrence of a startup or shutdown event to which these procedures apply, and shall include the following:

(a) The reasons why the excess emissions during startup and shutdown cannot be avoided;

(b) Identification of the specific production process or system that causes the excess emissions;

(c) The nature of the air contaminants likely to be emitted, and an estimate of the amount and duration of the excess emissions; and

(d) Identification of specific procedures to be followed which will minimize excess emissions at all times during startup and shutdown.

(3) Approval of the startup/shutdown procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR ~~340-028-1440~~214-0340(3). Approval of the startup/shutdown procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions which occur are determined by the Department to be avoidable, pursuant to OAR ~~340-028-1450~~214-0350.

(4) Once startup/shutdown procedures are approved, the permittee is not required to notify the Department of a planned startup or shutdown event which may result in excess emissions unless:

(a) Required by permit condition; or

(b) The source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards.

(5) When required by subsection (4)(a) or (b) of this rule, notification shall be made by telephone or in writing as soon as possible prior to the startup or shutdown event and shall include the date and estimated time and duration of the event.

(6) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.

(7) No startups or shutdowns resulting in excess emissions associated with the approved procedures in section (3) of this rule shall occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM₁₀ Non-attainment Areas.

(8) The permittee shall immediately notify the Department by telephone of a startup or shutdown event and shall be subject to the requirements under Upsets and Breakdowns in OAR ~~340-028-1430~~214-0330 if the permittee fails to:

(a) Obtain Department approval of start-up/shutdown procedures in accordance with OAR section (2) of this rule; or

(b) Notify the Department of a startup or shutdown event which may result in excess emissions in accordance with section (4) of this rule.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted by the EQC under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93;

Renumbered from 340-020-0360; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-028-1410

~~340-028-1420~~214-0320

Scheduled Maintenance

(1) In cases where it is anticipated that shutdown, by-pass, or operation at reduced efficiency of air pollution control equipment for necessary scheduled maintenance may result in excess emissions, prior Department authorization shall be obtained of procedures that will be used to minimize excess emissions. Application for approval of new procedures or modifications to existing procedures shall be submitted and received by the Department in writing at least 72 hours prior to the first occurrence of a maintenance event to which these procedures apply, and shall include the following:

(a) The reasons explaining the need for maintenance, including why it would be impractical to shut down the source operation during the period, and why the by-pass or reduced efficiency could not be avoided through better scheduling for maintenance or through better operation and maintenance practices;

(b) Identification of the specific production or emission control equipment or system to be maintained;

(c) The nature of the air contaminants likely to be emitted during the maintenance period, and the estimated amount and duration of the excess emissions, including measures such as the use of overtime labor and contract services and equipment, that will be taken to minimize the length of the maintenance period;

(d) Identification of specific procedures to be followed which will minimize excess emissions at all times during the scheduled maintenance.

(2) Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR ~~340-028-1440~~214-0340(3). Approval of the above procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur which are determined by the Department to be avoidable, pursuant to OAR ~~340-028-1450~~214-0350.

(3) Once maintenance procedures are approved, owners or operators shall not be required to notify the Department of a scheduled maintenance event which may result in excess emissions unless:

(a) Required by permit condition; or

(b) If the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards.

(4) When required by subsection (3)(a) or (b) of this rule, notification shall be made by telephone or in writing as soon as possible prior to the scheduled maintenance event and shall include the date and estimated time and duration of the event.

(5) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.

(6) No scheduled maintenance associated with the approved procedures in section (2) of this rule, which is likely to result in excess emissions, shall occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced

yellow or red woodstove curtailment period in areas designated by the Department as PM₁₀ Nonattainment Areas.

(7) The permittee shall immediately notify the Department by telephone of a maintenance event, and shall be subject to the requirements under Upset and Breakdowns in OAR ~~340-028-1430~~214-0330 if the permittee fails to:

(a) Obtain Department approval of maintenance procedures in accordance with section (1) of this rule; or

(b) Notify the Department of a maintenance event which may result in excess emissions in accordance with section (3) of this rule.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0365; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-1420.

~~340-028-1430~~214-0330

Upsets and Breakdowns

(1) For upsets or breakdowns caused by an emergency and resulting in emissions in excess of technology-based standards, the owner or operator may be entitled to an affirmative defense to enforcement if:

(a) The Department is notified immediately of the emergency condition; and

(b) The owner or operator fulfills requirements outlined in the Emergency Provision in OAR ~~340-028-1460~~214-0360.

(2) In the case of all other upsets and breakdowns, the following requirements apply:

(a) For large sources, as defined by OAR ~~340-028-0110~~200-0020, the first onset per calendar day of any excess emissions event due to upset or breakdown, other than those described in section (1) of this rule, shall be reported to the Department immediately unless otherwise specified by permit condition. Based on the severity of the event, the Department will either require submittal of a written report pursuant to OAR ~~340-028-1440~~214-0340(1) and (2), or a recording of the event in the upset log as required in OAR ~~340-028-1440~~214-0340(3).

(b) The owner or operator of a small source, as defined by OAR ~~340-028-0110~~200-0020, need not report excess emissions events due to upset or breakdown immediately unless otherwise required by: permit condition; written notice by the Department; subsection (1)(a) of this rule; or if the excess emission is of a nature that could endanger public health. Based on the severity of the event, the Department will either require submittal of a written report pursuant to OAR ~~340-028-1440~~214-0340(1) and (2), or a recording of the event in the upset log as required in OAR ~~340-028-1440~~214-0340(3).

(3) During any period of excess emissions due to upset or breakdown, the Department may require that an owner or operator immediately proceed to reduce or cease operation of the equipment or facility until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department would be taken upon consideration of the following factors:

(a) Potential risk to the public or environment;

(b) Whether shutdown could result in physical damage to the equipment or facility, or cause injury to employees;

(c) Whether any Air Pollution Alert, Warning, Emergency, or yellow or red woodstove curtailment period exists; or

(d) If continued excess emissions were determined by the Department to be avoidable.

(4) In the event of any on-going period of excess emissions due to upset or breakdown, the owner or operator shall cease operation of the equipment or facility no later than 48 hours after the beginning of the excess emission period, if the condition causing the emissions is not corrected within that time. The owner or operator need not cease operation if he or she can obtain Department's approval of procedures that will be used to minimize excess emissions until such time as the condition causing the excess emissions is corrected or brought under control. Approval of these procedures shall be based on the following information supplied to the Department:

(a) The reasons why the condition(s) causing the excess emissions cannot be corrected or brought under control. Such reasons shall include but not be limited to equipment availability and difficulty of repair or installation;

(b) Information as required in OAR ~~340-028-1410~~214-0310(2)(b), (c), and (d).

(5) Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in section (2) of this rule. At any time during the period of excess emissions the Department may require the owner or operator to cease operation of the equipment or facility, in accordance with OAR ~~340-028-1430~~section (3) of this rule. In addition, approval of these procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur that are determined by the Department to be avoidable, pursuant to OAR ~~340-028-1450~~214-0350.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted by the EQC under OAR ~~340-020-0472~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0370; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-028-1430.

~~340-028-1440~~214-0340

Reporting Requirements

(1) For any excess emissions event, the Department may require the owner or operator to submit a written excess emission report for each calendar day of the event. If required, this report shall be submitted within 15 days of the date of the event and shall include the following:

(a) The date and time the event was reported to the Department;

(b) Whether the event occurred during startup, shutdown, maintenance, or as a result of a breakdown or malfunction;

(c) Information as described in OAR ~~340-028-1450~~214-0350(1) through (5);

(d) The final resolution of the cause of the excess emissions; and

(e) Where applicable, evidence supporting any claim that emissions in excess of technology-based limits were due to an emergency pursuant to OAR ~~340-028-1460~~214-0360.

(2) Based on the severity of event, the Department may waive the 15 day reporting requirement, and specify either a shorter or longer time period for report submittal. The Department may also waive the submittal of the written report, if in the judgement of the Department, the period or magnitude of excess emissions was minor. In such cases the owner or operator shall record the event in the upset log pursuant to section (3) of this rule.

(3) Large and small source owners or operators shall keep an upset log of all planned and unplanned excess emissions. The upset log shall include all pertinent information as required in section (1) of this rule and shall be kept by the permittee for five calendar years.

(4) At each annual reporting period specified in a permit, or sooner if required by the Department, the permittee shall submit:

(a) A copy of the upset log entries for the reporting period; and

(b) Where applicable, current procedures to minimize emissions during startup, shutdown, or maintenance as outlined in OAR ~~340-028-1410~~214-0310 and ~~340-028-1420~~214-0320. The owner or operator shall specify in writing whether these procedures are new, modified, or have already been approved by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0375; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-1440.

~~340-028-1450~~214-0350

Enforcement Action Criteria

In determining if a period of excess emissions is avoidable, and whether enforcement action is warranted, the Department, based upon information submitted by the owner or operator, shall consider whether the following criteria are met:

(1) Where applicable, the owner or operator submitted a description of any emergency which may have caused emissions in excess of technology-based limits and sufficiently demonstrated, through properly signed, contemporaneous operating logs, upset logs, or other relevant evidence that an emergency caused the excess emissions and that all causes of the emergency were identified.

(2) Notification occurred immediately pursuant to OAR ~~340-028-1430~~214-0330(1)(a), (2), or (3).

(3) The Department was furnished with complete details of the event, including, but not limited to:

(a) The date and time of the beginning of the excess emissions event and the duration or best estimate of the time until return to normal operation;

(b) The equipment involved;

(c) Steps taken to mitigate emissions and corrective actions taken; and

(d) The magnitude and duration of each occurrence of excess emissions during the course of an event and the increase over normal rates or concentrations as determined by continuous monitoring or a best estimate (supported by operating data and calculations).

(4) During the period of the excess emissions event the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit.

(5) The appropriate remedial action was taken.

(6) The event was not due to negligent or intentional operation by the owner or operator. For the Department to find that an incident of excess emissions is not due to negligent or intentional operation by the owner or operator, the permittee shall demonstrate, upon Department request, that all of the following conditions were met:

(a) The process or handling equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

(b) Repairs or corrections were made in an expeditious manner when the operator(s) knew or should have known that emission limits were being or were likely to be exceeded. Expeditious manner may include such activities as use of overtime labor or contract labor and equipment that would reduce the amount and duration of excess emissions;

(c) The event was not one in a recurring pattern of incidents which indicate inadequate design, operation, or maintenance.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0380; renumbered from OAR 340-028-1450.

~~340-028-1460~~214-0360

Emergency Provision

(1) Effect of an emergency. An emergency constitutes an affirmative defense to noncompliance with technology-based emission limits if the source meets criteria specified in OAR ~~340-028-1450~~214-0350(1) through (6).

(2) The permittee seeking to establish the occurrence of an emergency has the burden of proof.

(3) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-1460.

DIVISION 216

AIR CONTAMINANT DISCHARGE PERMITS

Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits

340-028-1700216-0010

Purpose

The purpose of ~~OAR 340-028-1700 through 340-028-1790~~ this division is to prescribe the requirements and procedures for obtaining Air Contaminant Discharge Permits (ACDPs) pursuant to ORS 468A.040 through 468A.060 and related statutes for stationary sources. ~~OAR 340-028-1700 through 340-028-1790~~ This division shall not apply to Oregon Title V Operating Permit program sources unless an ACDP is required by OAR ~~340-028-1720216-0020(2), OAR 340-028-1720(4), OAR 340-028-1740216-0080, or OAR 340-028-1900224-0010(1).~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047200-0040.~~

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-86; Renumbered from 340-020-0033.02; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0140; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-1700.

340-028-1720216-0020

Permit Required Applicability

(1) No person shall construct, install, establish, develop or operate any air contaminant source which is referred to in OAR 340-216-0090 Table 41, appended hereto and incorporated herein by reference, without first obtaining an Air Contaminant Discharge Permit (ACDP) from the Department or Regional Authority.

(2) No person shall construct, install, establish, or develop any ~~major source, as defined by OAR 340-028-2110~~ that will be subject to the Oregon Title V Operating Permit program as provided in OAR 340-218-0020 without first obtaining an ACDP from the Department or Regional Authority. Any Oregon Title V Operating Permit program source required to have obtained an ACDP prior to construction shall:

(a) Choose to become a synthetic minor source, OAR 340-028-1740216-0080, and remain in the ACDP program; or

(b) File a complete application to obtain the Oregon Title V Operating Permit within 12 months after initial startup.

(3) No person shall modify any source covered by an ACDP under ~~OAR 340-028-1700 through 340-028-1790~~ this division such that the emissions are significantly increased without first applying for and obtaining a permit modification.

(4) No person shall modify any source required to be covered by an ACDP under ~~OAR 340-028-1700 through 340-028-1790~~ this division such that the source becomes subject to the Oregon Title V Operating Permit program, OAR 340-028-2100 through 340-028-2320 division 218 without first applying for and obtaining a modified ACDP. Any Oregon Title V Operating Permit program source required to have obtained an ACDP prior to modification shall:

(a) Choose to become a synthetic minor source, OAR 340-028-1740216-0080, and remain in the ACDP program;

(b) Choose to remain a synthetic minor source, OAR 340-028-1740216-0080, and remain in the ACDP program; or

(c) File a complete application to obtain the Oregon Title V Operating Permit within 12 months after initial startup of the modification.

(5) No person shall increase emissions above the PSEL or operate in excess of the enforceable condition to limit potential to emit and remain a synthetic minor source without first applying for and obtaining a modified ACDP.

(6) No person shall modify any source covered by an ACDP under ~~OAR 340-028-1700 through 340-028-1790~~ this division and not required to obtain an Oregon Title V Operating Permit such that:

(a) The process equipment is substantially changed or added to; or

(b) The emissions are significantly changed without first notifying the Department.

(7) Any owner or operator may apply to the Department or Regional Authority for an insignificant discharge permit if operating a facility with no, or insignificant, air contaminant discharges. The determination of applicability of this insignificant discharge permit shall be made solely by the Department or Regional Authority having jurisdiction. If issued an

insignificant discharge permit, the application processing fee and/or annual compliance determination fee, provided by OAR ~~340-028-1750216-0090~~, may be waived by the Department or Regional Authority.

(8) The Department may designate any source as a "Minimal Source" based upon the following criteria:

- (a) Quantity and quality of emissions;
- (b) Type of operation;
- (c) Compliance with Department regulations; and

(d) Minimal impact on the air quality of the surrounding region. If a source is designated as a minimal source, the annual compliance determination fee, provided by OAR ~~340-028-1750216-0090~~, will be collected no less frequently than every five years.

~~OAR 340-028-1770(2)(9)~~ Any person complying with this rule ~~division~~ shall be exempted from complying with the notice of construction requirements of OAR ~~340-028-0800210-0200~~ and ~~340-028-0820210-0220~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047211-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0155; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1994, f. & cert. ef. 10-4-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; renumbered from OAR 340-028-1720.

340-216-0030

Definitions

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

[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

Stats. Implemented: ORS 468A.025

Hist.:

340-028-1770216-0040

Other Application Requirements

(1) Any person intending to obtain an ACDP to construct, install, or establish a new or modified source of air contaminant emissions as required in OAR ~~340-028-1720216-0020~~ shall submit a completed application on forms provided by the Department or at least the following information:

- (a) Name, address, and nature of business;
- (b) A description of the production processes and a related flow chart;
- (c) A plot plan showing location of all air contaminant sources and the nearest residential or commercial property;
- (d) Type and quantity of fuels used;
- (e) Amount, nature, and duration of emissions;
- (f) Plans and specifications for air pollution control equipment and facilities and their relationship to the production process;

(g) Estimated efficiency of air pollution control equipment;

(h) Any information on pollution prevention measures and cross-media impacts the person wants the Department to consider in determining applicable control requirements and evaluating compliance methods; and

(i) Where the operation or maintenance of air pollution control equipment and emissions reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements under OAR ~~340-028-0620226-0120~~(1) and (2).

~~(2) Any person complying with section (1) of this rule shall be exempted from complying with the notice of construction requirements of OAR 340-028-0800 and 340-028-0820.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047200-0040~~.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 20-1979, f. & ef. 6-29-79; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0175; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-1770.

340-028-1710216-0050

Public Notice Policy

(1) It shall be the policy of the Department and the Regional Authority to issue public notice as to the intent to issue an ACDP allowing at least 30 days for written comment from the public, and from interested State and Federal agencies, prior to issuance of the permit. Public notice shall include the name and quantities of new or increased emissions for which permit limits are proposed, or new or increased emissions which exceed significant emission rates established by the Department.

(2) In addition to the information required under OAR 340-011-0007, public notices for ACDPs shall contain:

(a) If a major source permit, whether the proposed permitted emission would have a significant impact on a Class 1 airshed;

(b) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment or nonattainment for that pollutant; and

(c) For each major source within an attainment area for which dispersion modeling has been performed an indication of what impact each proposed permitted emission would have on the Prevention of Significant Deterioration Program within that attainment area.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.

Stat. Auth.: ORS 183, ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 34-1990, f. 8-20-90, cert. ef. 9-1-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93;

Renumbered from 340-020-0150; renumbered from OAR 340-028-1710.

340-028-1725216-0060

General Air Contaminant Discharge Permits

(1) Applicability. The Department may issue general permits for categories of sources where individual permits are not necessary in order to adequately protect the environment. Before the Department can issue a general permit, the following conditions must be met:

(a) There are several sources which involve the same or substantially similar types of operations;

(b) All applicable requirements can be contained in a general permit;

(c) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same;

(d) The pollutants emitted are the same; and

(e) A plant site emission limit is not required.

(2) Public notice. Prior to issuing a general permit, the Department will provide public notice of the proposed permit conditions for each source category according to the procedures outlined in OAR 340-028-1710216-0050 and the following:

(a) Notice shall be given by publication in a newspaper of general circulation in the state and in areas where potential applicants are known to be located, or in a Department publication designed to give general public notice, and by other means if necessary to ensure adequate public notice.

(b) The notice shall be provided to persons on a Department mailing list and others who submit a written request for notification.

(c) The notice shall include the information required by OAR 340-011-0007 and the following:

(A) The name, address and telephone number of the Department contact from whom interested persons may obtain additional information;

(B) Copies of the draft permit or equivalent summary; and

(C) A brief description of the procedures to request a hearing or the time and place of any hearing that has been scheduled.

(3) Permit issuance:

(a) The Department will follow the permit issuance procedures outlined in OAR 340-014-0025 for issuing a general permit for a source category.

(b) The Department may revoke a general permit if conditions or standards have changed so the permit no longer meets the requirements of this rule.

(4) Source assignment:

(a) Any source wishing to obtain a general permit shall submit a written application on a form provided by the Department along with the fee specified in the permit.

(b) The Department will assign a source to a general permit for the term of the permit if:

(A) The source meets the qualifications specified in the permit;

(B) The Department determines that the source has not had compliance problems; and

(C) The Department determines that the source would be appropriately regulated by a general permit.

(c) Assignment of a source to a general permit is not subject to public notice requirements, but the Department will make an updated list of sources assigned to a source category available for public review.

(d) The Department may revoke a source's assignment to a general permit if the source no longer meets the requirements of this rule or the conditions of the permit.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 14-1998, f. & cert. ef. 9-14-98; renumbered from OAR 340-028-1725.

340-028-1730216-0070

Multiple-Source Permit

When a single site includes more than one air contaminant source, a single ACDP may be issued including all sources located at the site. For uniformity such applications shall separately identify by subsection each air contaminant source included from OAR 340-216-0090 Table 41:

(1) When a single air contaminant source which is included in a multiple-source ACDP, is subject to permit modification, revocation, suspension, or denial, such action by the Department or Regional Authority shall only affect that individual source without thereby affecting any other source subject to the permit.

(2) When a multiple-source ACDP includes air contaminant sources subject to the jurisdiction of the Department and the Regional Authority, the Department may require that it shall be the permit issuing agency. In such cases, the Department and the Regional Authority shall otherwise maintain and exercise all other aspects of their respective jurisdictions over the permittee.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0003; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0160; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-1730.

340-028-1740216-0080

Synthetic Minor Sources

(1) Enforceable conditions to limit a source's potential to emit shall be included in the ACDP for a synthetic minor source. Enforceable conditions, in addition to the PSEL if required under OAR 340-028-1000 through 340-028-1060 division 222, shall include one or more of the following physical or operational limitations but in no case shall exceed the conditions used to establish the PSEL:

(a) Restrictions on hours of operation;

(b) Restrictions on levels of production;

(c) Restrictions on the type or amount of material combusted, stored, or processed;

(d) Additional air pollution control equipment; or

(e) Other limitations on the capacity of a source to emit air pollutants.

(2) The reporting and monitoring requirements of the conditions which limit the potential to emit contained in the ACDP of synthetic minor sources shall meet the requirements of OAR 340-028-1100212-0120 through 340-028-1140212-0160.

(3) To avoid being required to submit an application for an Oregon Title V Operating Permit, the owner or operator of a major source shall obtain an ACDP or a modification to an ACDP containing conditions that would qualify the source as a synthetic minor source before the owner or operator would be required to submit an Oregon Title V Operating Permit application.

(4) Applications for synthetic minor source status shall be subject to notice procedures of OAR 340-028-1710216-0050.

(5) Synthetic minor source owners or operators who cause their source to be subject to the Oregon Title V Operating Permit program by requesting an increase in the source's potential to emit, when that increase uses the source's existing capacity and does not result from construction or modification, shall:

(a) Become subject to OAR ~~340-028-2100 through 340-028-2320~~ division 218;

(b) Submit an Oregon Title V Operating Permit application pursuant to OAR ~~340-028-2120~~218-0040; and

(c) Receive an Oregon Title V Operating Permit before commencing operation in excess of the enforceable condition to limit potential to emit.

(6) Synthetic minor source owners or operators who cause their source to be subject to the Oregon Title V Operating Permit program by requesting an increase in the source's potential to emit, when that increase is the result of construction or modification, shall:

(a) Submit an application for the modification of the existing ACDP;

(b) Receive the modified ACDP before beginning construction or modification;

(c) Become subject to OAR ~~340-028-2100 through 340-028-2320~~ division 218; and

(d) Submit an Oregon Title V Operating Permit application under OAR ~~340-028-2120~~218-0040 to obtain an Oregon Title V Operating Permit within 12 months after initial startup of the construction or modification.

(7) Synthetic minor sources that exceed the limitations on potential to emit are in violation of OAR ~~340-028-2110~~218-0020(1)(a).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.065 & ORS 468A.310

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1998, f. & cert. ef. 9-14-98; renumbered from OAR 340-028-1740.

~~340-028-1750~~216-0090

Fees and Permit Duration

(1) All persons required to obtain a permit shall be subject to a three part fee consisting of a uniform non-refundable filing fee of ~~\$98~~, an application processing fee, and an annual compliance determination fee which are determined by applying Table 4₁, Part II. The amount equal to the filing fee, application processing fee, and the annual compliance determination fee shall be submitted as a required part of any application for a new permit. The amount equal to the filing fee and the application processing fee shall be submitted with any application for modification of a permit.

(2) The fee schedule contained in the listing of air contaminant sources in Table 4₁ shall be applied to determine the fees for ACDP user fees (Table 4₁, Part I.) and ACDP fees (Table 4₁, Part II.) on a Standard Industrial Classification (SIC) plant site basis.

(3) Modifications of existing, unexpired permits which are instituted by the Department or Regional Authority due to changing conditions or standards, receipts ~~or~~ of additional information, or any other reason pursuant to applicable statutes and do not require refileing or review of an application or plans and specifications shall not require submission of the filing fee or the application processing fee.

(4) Applications for multiple-source permits received pursuant to OAR ~~340-028-1730~~216-0070 shall be subject to a single ~~\$98~~ filing fee. The application processing fee and annual compliance determination fee for multiple-source permits shall be equal to the total amounts required by the individual sources involved, as listed in Table 4₁.

(5) The annual compliance determination fee shall be paid at least 30 days prior to the start of each subsequent permit year. Failure to timely remit the annual compliance determination fee in accordance with the above shall be considered grounds for not issuing a permit or revoking an existing permit.

(6) If a permit is issued for a period less than one (1) year, the applicable annual compliance determination fee shall be equal to the full annual fee. If a permit is issued for a period greater than 12 months, the applicable annual compliance determination fee shall be prorated by multiplying the annual compliance determination fee by the number of months covered by the permit and dividing by twelve (12).

(7) In no case shall a permit be issued for more than ten (10) years, except for synthetic minor source permits which shall not be issued for more than five (5) years.

(8) Upon accepting an application for filing, the filing fee shall be non-refundable.

(9) When an air contaminant source which is in compliance with the rules of a permit issuing agency relocates or proposes to relocate its operation to a site in the jurisdiction of another permit issuing agency having comparable control requirements,

application may be made and approval may be given for an exemption of the application processing fee. The permit application and the request for such fee reduction shall be accompanied by:

(a) A copy of the permit issued for the previous location; and

(b) Certification that the permittee proposes to operate with the same equipment, at the same production rate, and under similar conditions at the new or proposed location. Certification by the agency previously having jurisdiction that the source was operated in compliance with all rules and regulations will be acceptable should the previous permit not indicate such compliance.

(10) If a temporary or conditional permit is issued in accordance with adopted procedures, fees submitted with the application for an ACDP shall be retained and be applicable to the regular permit when it is granted or denied.

(11) All fees shall be made payable to the permit issuing agency.

(12) Pursuant to ORS 468A.135, a regional authority may adopt fees in different amounts than set forth in Table 41 provided such fees are adopted by rule and after hearing and in accordance with ORS 468.065(2).

(13) Sources which are temporarily not conducting permitted activities, for reasons other than regular maintenance or seasonal limitations, may apply for use of a modified annual compliance determination fee in lieu of an annual compliance determination fee determined by applying Table 41. A request for use of the modified annual compliance determination fee shall be submitted to the Department in writing along with the modified annual compliance determination fees on or before the due date of the annual compliance determination fee. The modified annual compliance determination fee shall be \$539.

(14) Owners or operators who have received Department approval for payment of a modified annual compliance determination fee shall obtain authorization from the Department prior to resuming permitted activities. Owners or operators shall submit written notification to the Department at least thirty (30) days before startup specifying the earliest anticipated startup date, and accompanied by:

(a) Payment of the full annual compliance determination fee determined from Table 41 if greater than six (6) months would remain in the billing cycle for the source; or

(b) Payment of 50% of the annual compliance determination fee determined from Table 41 if six (6) months or less would remain in the billing cycle.

(15) Fees for general permits:

(a) The fees for source assignment to a general permit shall be seventy-five percent of the applicable fees in Table 41, OAR 340-028-1750216-0090 except as provided in Subsection (d) of this Section. Fees shall be specified in the permit;

(b) The Department may provide in the permit that the annual compliance determination fee in OAR 340-028-1750216-0090 Table 41 shall be paid annually or at less frequent intervals;

(c) For initial assignment to a general permit, the fees shall be prorated to the next highest full year for the remaining life of the permit;

(d) Exceptions:

(A) The filing fee and compliance determination fee required by OAR 340-028-1750216-0090 Table 41 shall not be reduced;

(B) The initial permitting or construction fees required in OAR 340-028-1750216-0090 Table 41 shall not apply.

Stat. Auth.: ORS 468.020 & ORS 468A.040

Stats. Implemented: ORS 468.065

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033.12; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 11-1983, f. & ef. 5-31-83; DEQ 6-1986, f. & ef. 3-26-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 17-1990, f. & cert. ef. 5-25-90; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0165; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 22-1994, f. & cert. ef. 10-14-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 18-1997, f. 8-27-97, cert. ef. 10-1-97; DEQ 7-1998, f. & cert. ef. 5-5-98; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 14-1998, f. & cert. ef. 9-14-98; renumbered from OAR 340-028-1750.

340-028-1790216-0100

Permit Program For Regional Air Pollution Authority

Subject to the provisions of this rule, the Commission authorizes the Regional Authority to issue, modify, renew, suspend, and revoke ACDPs or ~~Oregon Title V Operating Permits~~ for air contamination sources within its jurisdiction:

(1) Each permit proposed to be issued or modified by the Regional authority shall be submitted to the Department at least thirty (30) days prior to the proposed issuance date.

(2) A copy of each permit issued, modified, or revoked by the Regional authority shall be promptly submitted to the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0185; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-1790.

**TABLE 41
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-028-1750216-0090)**

Part I.

Note: Fees in (A) through (H) are in addition to any other applicable fee.

A.	Late Payment a) 8 - 30 days b) > 30 days	\$200 \$400
B.	Ambient Monitoring Network Review	\$1,170
C.	Modeling Review	\$2,600
D.	Alternative Emission Control Review	\$1,950
E.	Non-technical permit modification (name change, ownership transfer, and similar)	\$65
F.	Initial Permitting or Construction a) Complex b) Moderately Complex c) Simple	\$28,600 \$13,000 \$2,600
G.	Elective Permits - Synthetic Minor Sources a) Permit Application or Modification b) Annual Compliance Assurance	\$2,110 \$1,110
H.	Filing	\$98

TABLE 41
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-028-1750216-0090)

Part II.

Note: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fees for other applicable source categories.

No.	Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Application Processing Fee	Annual Compliance Determination Fee
1.	Seed cleaning and associated grain elevators in special control areas, commercial operations only	0723	801	1,221
2.	Reserved			
3.	Flour and other grain mill products and associated grain elevators in special control areas a) 10,000 or more tons/year b) Less than 10,000 tons/year	2041	2,603 2,002	2,402 1,031
4.	Cereal preparations and associated grain elevators in special control areas	2043	2,603	1,732
5.	Blended and prepared flour and associated grain elevators in special control areas a) 10,000 or more tons/year b) Less than 10,000 tons/year	2045	2,603 2,002	1,732 1,001
6.	Prepared feeds for animals and fowl and associated grain elevators in special control areas a) 10,000 or more tons/year b) Less than 10,000 tons/year	2048	2,603 1,602	2,402 1,892
7.	Beet sugar manufacturing	2063	3,403	11,922
8.	Animal reduction facilities a) 10,000 or more tons/year input b) Less than 10,000 tons/year input	2077	3,203 2,402	3,844 2,083
9.	Coffee roasting, 30 tons/year or more roasted product	2095	1,602	1,572
10.	Sawmills and/or planing mills a) 25,000 or more bd. ft./shift finished product or 10 or more employees per shift b) Reserved	2421, 2426	1,602	2,402
11.	Reserved			
12.	Reserved			

TABLE 41
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-028-1750216-0090)

Part II.

Note: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fees for other applicable source categories.

No.	Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Application Processing Fee	Annual Compliance Determination Fee
13.	Millwork (including kitchen cabinets and structural wood members) 25,000 or more bd. ft./shift input or 10 or more employees per shift	2431, 2434, 2439	1,201	1,892
14.	Plywood manufacturing and/or veneer drying a) 25,000 or more sq. ft./hr., 3/8" basis finished product b) 10,000 or more but less than 25,000 sq. ft./hr., 3/8" basis finished product c) Less than 10,000 sq. ft./hr., 3/8" basis finished product	2435, 2436	5,005 3,604 1,201	4,845 3,273 1,732
15.	Reserved			
16.	Wood preserving (excluding waterborne)	2491	2,002	1,921
17.	Particleboard manufacturing (including strandboard, flakeboard, and waferboard) a) 10,000 or more sq. ft./hr., 3/4" basis finished product b) Less than 10,000 sq. ft./hr., 3/4" basis finished product	2493	5,005 2,402	5,706 2,722
18.	Hardboard manufacturing (including fiberboard) a) 10,000 or more sq. ft./hr., 1/8" basis finished product b) Less than 10,000 sq. ft./hr., 1/8" basis finished product	2493	5,005 2,402	4,685 2,402
19.	Battery separator manufacturing	2499	2,002	4,164
20.	Furniture and fixtures a) 25,000 or more bd. ft./shift input or 10 or more employees per shift b) Reserved	2511	1,201	1,892

TABLE 41
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-028-1750216-0090)

Part II.

Note: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fees for other applicable source categories.

No.	Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Application Processing Fee	Annual Compliance Determination Fee
21.	Pulp mills, paper mills, and paperboard mills a) Kraft, sulfite, & neutral sulfite only b) Other - 100 tons or more of emissions	2611, 2621, 2631	10,010 10,010	20,731 20,731
22.	Building paper and building-board mills	2621, 2493	1,602	1,572
23.	Alkalies and chlorine mfg. a) High cost b) Low cost	2812	4,905 2,803	5,506 4,134
24.	Calcium carbide manufacturing a) High cost b) Low cost	2819	5,256 3,003	5,506 4,134
25.	Nitric acid manufacturing a) High cost b) Low cost	2819	3,504 2,002	2,773 2,083
26.	Ammonia manufacturing a) High cost b) Low cost	2819	3,504 2,002	3,203 2,402
27.	Industrial inorganic and organic chemicals manufacturing (not elsewhere included) a) High cost b) Low cost	2819, 2851, 2869	4,555 2,603	3,923 2,954
28.	Synthetic resin manufacturing a) High cost b) Low cost	2821	3,504 2,002	3,203 2,402
29.	Charcoal manufacturing	2861	2,803	5,005
30.	Pesticide manufacturing	2879	5,005	20,731
31.	Petroleum refining a) Refining, general b) Asphalt production by distillation	2911	10,010 2,002	20,731 2,402
32.	Reserved			
33.	Asphalt blowing plants	2952	2,002	3,114
34.	Asphaltic concrete paving plants a) Stationary b) Portable	2951	1,001 1,001	1,182 1,502

**TABLE 41
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-028-1750216-0090)**

Part II.

Note: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fees for other applicable source categories.

No.	Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Application Processing Fee	Annual Compliance Determination Fee
35.	Asphalt felts or coating	2952	1,001	1,802
36.	Rerefining of lubricating oils and greases, and reprocessing of oils and solvents for fuel	2992	1,802	2,243
37.	Glass container manufacturing	3221	2,002	2,954
38.	Cement manufacturing	3241	6,406	15,185
39.	Concrete manufacturing, including redimix and CTB	3271, 3272, 3273	400	641
40.	Lime manufacturing	3274	3,054	1,572
41.	Gypsum products	3275	1,602	1,732
42.	Rock crusher a) Stationary b) Portable	1442, 1446, 3295	901 901	1,182 1,502
3.	Steel works, rolling and finishing mills, electro-metallurgical products	3312, 3313	5,005	4,134
44.	Incinerators a) 250 or more tons/day capacity or any off-site infectious waste incinerator b) 50 or more but less than 250 tons/day capacity c) 2 or more but less than 50 tons/day capacity d) Crematoriums and pathological waste incinerators, less than 2 tons/day capacity e) PCB and/or other hazardous waste incinerator	4953	24,024 6,006 1,001 1,001 24,024	10,351 3,143 1,221 1,221 10,351
45.	Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries (not elsewhere classified) a) 3,500 or more tons/year production b) Less than 3,500 tons/year production	3321, 3322, 3324, 3325	5,005 1,201	3,623 1,892
46.	Primary aluminum production	3334	10,010	20,731

TABLE 41
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-028-1750216-0090)

Part II.

Note: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fees for other applicable source categories.

No.	Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Application Processing Fee	Annual Compliance Determination Fee
47.	Primary smelting of zirconium or hafnium	3339	10,010	20,731
48.	Primary smelting and refining of ferrous and nonferrous metals (not elsewhere classified) a) 2,000 or more tons/year production b) Less than 2,000 tons/year production	3331, 3339	5,005 1,001	8,969 3,463
49.	Secondary smelting and refining of nonferrous metals, 100 or more tons/year metal charged	3341	2,402	2,402
50.	Nonferrous metal foundries, 100 or more tons/year metal charged	3363, 3364, 3365, 3366, 3369	1,201	2,083
51.	Reserved			
52.	Galvanizing and pipe coating (excluding all other activities)	3479	1,001	1,572
53.	Battery manufacturing	3691	1,201	2,083
54.	Grain elevators, intermediate storage only, located in special control areas (not elsewhere classified) a) 20,000 or more tons/year grain processed b) Less than 20,000 tons/year grain processed	4221	1,802 1,001	3,273 1,572
55.	Electric power generation* a) Wood or coal fired, 25 MW or more b) Reserved c) Oil or natural gas fired, 25 MW or more	4911	40,040 3,604	20,731 5,005
56.	Fuel burning equipment for gas production and/or distribution, 10 million or more Btu/hr. heat input a) Natural gas transmission b) Natural gas production and/or mfg.	4922, 4925	3,804 3,804	2,402 2,402

**TABLE 41
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE**

(340-028-1750216-0090)

Part II.

Note: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fees for other applicable source categories.

No.	Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Application Processing Fee	Annual Compliance Determination Fee
57.	Terminal elevators primarily engaged in buying and/or marketing grain, in special control areas a) 20,000 or more tons/year grain processed b) Less than 20,000 tons/year grain processed	5153	5,005 1,401	4,134 1,572
58.	Fuel burning equipment within the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area Transportation Study Boundary, and Grants Pass, Klamath Falls, and LaGrande Urban Growth Areas **, ***, **** a) Residual or distillate oil fired, 250 million or more Btu/hr. heat input b) Residual or distillate oil fired, 10 or more but less than 250 million Btu/hr. heat input c) Reserved	4961	3,203 2,002	3,143 1,732
59.	Fuel burning equipment within the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area Transportation Study Boundary, and Grants Pass, Klamath Falls, and LaGrande Urban Growth Areas **, ***, **** a) Wood or coal fired, 35 million or more Btu/hr. heat input b) Wood or coal fired, less than 35 million Btu/hr. heat input	4961	3,203 801	3,143 1,732

TABLE 41
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-028-1750216-0090)

Part II.

Note: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fees for other applicable source categories.

No.	Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Application Processing Fee	Annual Compliance Determination Fee
60.	Fuel burning equipment outside the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area Transportation Study Boundary, and Grants Pass, Klamath Falls, and LaGrande Urban Growth Areas **, ***, **** All oil fired 30 million or more Btu/hr. heat input, and all wood and coal fired 10 million or more Btu/hr. heat input	4961	2,002	1,732
1.	Sources installed in or after 1971 not listed herein which would emit 5 or more tons/yr. PM ₁₀ in a PM ₁₀ nonattainment area, or 10 or more tons/yr. of any air contaminants in any part of the state. This includes but is not limited to particulates, SO _x , or Volatile Organic Compounds (VOC), if the source were to operate uncontrolled a) High cost b) Medium cost c) Low cost	any	18,018 5,005 1,201	12,813 2,243 961
62.	Sources installed in or after 1971 not listed herein which would emit significant malodorous emissions, as determined by Departmental review of sources which are known to have similar air contaminant emissions. a) High cost b) Medium cost c) Low cost	any	18,018 5,005 1,201	12,813 2,243 961

TABLE 41
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-028-1750216-0090)
Part II.

Note: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fees for other applicable source categories.

No.	Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Application Processing Fee	Annual Compliance Determination Fee
63.	Sources not listed herein for which an air quality problem is identified by the Department or which are not otherwise required to obtain a permit a) High cost b) Medium cost c) Low cost	any	18,018 5,005 1,201	12,813 2,243 961
64.	Bulk gasoline plants regulated by OAR 340-022-0120232-0080 *****	5171	801	1,031
65.	Bulk gasoline terminals *****	5171	8,008	3,463
66.	Liquid storage tanks, 39,000 gallons or more capacity, regulated by OAR 340-022-0160232-0150 (not elsewhere included) *****	5169, 5171	400/tank	711/tank
67.	Can or drum coating ***** a) 50,000 or more units/month b) Less than 50,000 units/month	3411, 3412	12,012 801	6,217 1,382
68.	Paper or other substrate coating *****	2672, 3861	12,012	6,217
69.	Coating flat wood regulated by OAR 340-022-0200232-0220 *****	2435	4,004	2,083
70.	Surface coating, manufacturing ***** a) 100 or more tons VOC/yr. b) 10 or more but less than 100 tons VOC/yr. c) Less than 10 tons VOC/yr. (at sources' request)	any	4,004 1,201 400	2,763 1,382 581
71.	Flexographic or rotogravure printing, 60 or more tons VOC/yr. per plant *****	2754, 2759	4,505	4,004
72.	Reserved			
73.	Non-major sources subject to NESHAPS rules (except demolition, renovation and Perchloroethylene Dry Cleaning)	any	801	1,001

TABLE 41
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-028-1750216-0090)

Part II.

Note: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fees for other applicable source categories.

No.	Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Application Processing Fee	Annual Compliance Determination Fee
74.	Major sources requiring toxic air pollutant review, including Maximum Available Control Technology (MACT), (not elsewhere classified)	any	2,002	1,921
75.	Soil remediation plants	1799		
	a) Stationary		2,002	1,892
	b) Portable		2,002	2,402

- * Excluding hydro-electric and nuclear generating projects.
- ** Including co-generation facilities of less than 25 megawatts.
- *** Legal descriptions and maps of these areas are on file in the Department.
- **** Fees will be based on the total aggregate heat input of all fuel burning equipment at the site.
- ***** Permits for sources in categories 64 through 71 are required only if the source is located in the Portland AQMA, Medford-Ashland AQMA, or Salem SATS.

DIVISION 218

OREGON TITLE V OPERATING PERMITS

Rules Applicable to Sources Required to Have Oregon Title V Operating Permits

340-028-2100-218-0010

Policy and Purpose

These rules establish a program to implement Title V of the FCAA for the State of Oregon as part of the overall industrial source control program:

(1) All sources subject to ~~OAR 340-028-2100 through 340-028-2320~~ this division shall have an Oregon Title V Operating Permit that assures compliance by the source with all applicable requirements in effect as of the date of permit issuance.

(2) The requirements of the Oregon Title V Operating Permit program, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to the permitting of affected sources under the national acid rain program, except as provided herein.

(3) All sources subject to ~~OAR 340-028-2100 through 340-028-2320~~ this division are exempt from the following:

- (a) Registration as required by ORS 468A.050 and OAR ~~340-028-0500~~ 210-0100 through ~~340-028-0520~~ 210-0120,
- (b) Notice of Construction and Approval of Plans, OAR ~~340-028-0800~~ 210-0200 through ~~340-028-0820~~ 210-0220;
- (c) Air Contaminant Discharge Permits, OAR ~~340-028-1700 through 340-028-1790~~ division 216, unless required by OAR ~~340-028-1720~~ 216-0020 sections (2); or OAR ~~340-028-1720~~ (4), or OAR ~~340-028-1900-224-0010~~ (1); and
- (d) OAR Chapter 340, Division 14.

~~340-028-0100~~ (4) Subject to the ~~provision of the rules~~ requirements in this Division, the Lane Regional Air Pollution Authority is designated by the Commission as the permitting agency to implement the Oregon Title V Operating Permit program within its area of jurisdiction. The Regional Authority's program is subject to Department oversight. The requirements and procedures contained in this Division pertaining to the Oregon Title V Operating Permit program shall be used by the Regional Authority to implement its permitting program until the Regional Authority adopts superseding rules which are at least as restrictive as state rules.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2100.

Stationary Source Air Pollution Control and Permitting Procedures

340-028-2110-218-0020

Applicability

(1) ~~OAR 340-028-2100 through 340-028-2320~~ This division applies to the following sources:

- (a) Any major source;
- (b) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the FCAA;
- (c) Any source, including an area source, subject to a standard or other requirement under section 112 of the FCAA, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the FCAA;
- (d) Any affected source under Title IV; and
- (e) Any source in a source category designated by the Commission pursuant to ~~OAR 340-028-2110~~ this rule.

(2) The owner or operator of a source with an Oregon Title V Operating Permit whose potential to emit later falls below the emission level that causes it to be a major source, and which is not otherwise required to have an Oregon Title V Operating Permit, may submit a request for revocation of the Oregon Title V Operating Permit. Granting of the request for revocation does not relieve the source from compliance with all applicable requirements or ACDP requirements.

(3) Synthetic minor sources.

(a) A source which would otherwise be a major source subject to ~~OAR 340-028-2100 through 340-028-2320~~this division may choose to become a synthetic minor source by limiting its emissions below the emission level that causes it to be a major source through production or operational limits contained in an ACDP issued by the Department under ~~340-028-1700 through 340-028-1790~~ division 216.

(b) The reporting and monitoring requirements of the emission limiting conditions contained in the ACDPs of synthetic minor sources issued by the Department under ~~340-028-1700 through 340-028-1790~~ division 216 shall meet the requirements of OAR ~~340-028-1100~~212-0120 through ~~340-028-1140~~212-0160.

(c) Synthetic minor sources who request to increase their potential to emit above the major source emission rate thresholds shall become subject to ~~OAR 340-028-2100 through 340-028-2320~~this division and shall submit a permit application under OAR ~~340-028-2120-218-0040~~ in accordance with OAR ~~340-028-1740~~216-0080.

(d) Synthetic minor sources that exceed the limitations on potential to emit are in violation of OAR ~~340-028-2110~~218-0020(1)(a).

(4) Source category exemptions.

(a) The following source categories are exempted from the obligation to obtain an Oregon Title V Operating Permit:

(A) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters; and

(B) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 61, Subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, section 61.145, Standard for Demolition and Renovation.

(b) Permit deferral. A source with the potential to emit at or above major source thresholds need not apply for an Oregon Title V Operating Permit or obtain a synthetic minor permit before December 31, 1999 if the source maintains actual emissions below 50 percent of those thresholds for every consecutive twelve month period since January 25, 1994 and is not otherwise required to obtain an Oregon Title V Operating Permit or synthetic minor permit.

(A) The owner or operator of a source electing to defer permitting under this paragraph shall maintain on site records adequate to demonstrate that actual emissions for the entire source are below 50 percent of major source thresholds.

(B) Recorded information shall be summarized in a monthly log, maintained for five years, and be available to Department and EPA staff on request.

(c) All sources listed in OAR ~~340-028-2110~~218-0020(1) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(c) of the FCAA, are exempted by the Department from the obligation to obtain an Oregon Title V Operating Permit.

(d) Any source listed in OAR ~~340-028-2110~~218-0020(1) exempt from the requirement to obtain a permit under this rule may opt to apply for an Oregon Title V Operating Permit.

(5) Emissions units and Oregon Title V Operating Permit program sources.

(a) For major sources, the Department shall include in the permit all applicable requirements for all relevant emissions units in the major source, including any equipment used to support the major industrial group at the site.

(b) For any nonmajor source subject to the Oregon Title V Operating Permit program under OAR ~~340-028-2110~~218-0020(1) and not exempted under OAR ~~340-028-2110~~218-0020(4), the Department shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the Oregon Title V Operating Permit program.

(6) Fugitive emissions. Fugitive emissions from an Oregon Title V Operating Permit program source shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(7) Insignificant activity emissions. All emissions from insignificant activities, including categorically insignificant activities and aggregate insignificant emissions, shall be included in the determination of the applicability of any requirement.

(8) Oregon Title V Operating Permit program sources that are required to obtain an ACDP, OAR ~~340-028-1700 through 340-028-1790~~ division 216, or a Notice of Approval, OAR ~~340-028-2270-218-0190~~, because of a Title I modification, shall operate in compliance with the Oregon Title V Operating Permit until the Oregon Title V Operating Permit is revised to incorporate the ACDP or the Notice of Approval for the Title I modification.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020, ORS 468.065, ORS 468A.040 & ORS 468A.310

Stats. Implemented: ORS 468.020, ORS 468.065, ORS 468A.025 & ORS 468A.310

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 24-1995, f. & cert. ef. 10-11-95; DEQ 1-1997, f. & cert. ef. 1-21-97; DEQ 14-1998, f. & cert. ef. 9-14-98; renumbered from OAR 340-028-2110.

340-218-0030

Definitions

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.:

340-028-2120-218-0040

Permit Applications

(1) Duty to apply. For each Oregon Title V Operating Permit program source, the owner or operator shall submit a timely and complete permit application in accordance with this rule:

(a) Timely application:

(A) A timely application for a source that is in operation as of the effective date of the Oregon Title V Operating Permit program is one that is submitted 12 months after the effective date of the Oregon Title V Operating Permit program in Oregon or on or before such earlier date as the Department may establish. If an earlier date is established, the Department will provide at least six (6) months for the owner or operator to prepare an application. A timely application for a source that is not in operation or that is not subject to the Oregon Title V Operating Permit program as of the effective date of the Oregon Title V Operating Permit program is one that is submitted within 12 months after the source becomes subject to the Oregon Title V Operating Permit program.

(B) Any Oregon Title V Operating Permit program source required to have obtained a permit prior to construction under the ACDP program, ~~OAR 340-028-1700 through 340-028-1790~~ division 216; New Source Review program, ~~OAR 340-028-2000 through 340-028-2000~~ division 224; or the construction/operation modification rule, ~~OAR 340-028-2270-218-0190~~; shall file a complete application to obtain the Oregon Title V Operating Permit or permit revision within 12 months after commencing operation. Commencing operation shall be considered initial startup. Where an existing Oregon Title V Operating Permit would prohibit such construction or change in operation, the owner or operator shall obtain a permit revision before commencing operation;

(C) Any Oregon Title V Operating Permit program source owner or operator shall follow the appropriate procedures under ~~OAR 340-028-2100 through 340-028-2320~~ this division prior to commencement of operation of a source permitted under the construction/-operation modification rule, ~~OAR 340-028-2270-218-0190~~;

(D) For purposes of permit renewal, a timely application is one that is submitted at least 12 months prior to the date of permit expiration, or such other longer time as may be approved by the Department that ensures that the term of the permit will not expire before the permit is renewed. If more than 12 months is required to process a permit renewal application, the Department shall provide no less than six (6) months for the owner or operator to prepare an application. In no event shall this time be greater than 18 months;

(E) Applications for initial phase II acid rain permits shall be submitted to the Department by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides;

(F) Applications for Compliance Extensions for Early Reductions of HAP shall be submitted before proposal of an applicable emissions standard issued under section 112(d) of the FCAA and shall be in accordance with provisions prescribed in ~~OAR 340-032-0300-244-0100 through 340-032-0380-244-0180.~~

(b) Complete application:

(A) To be deemed complete, an application shall provide all information required pursuant to section (3) of this rule. The application shall include six (6) copies of all required forms and exhibits in hard copy and one (1) copy in electronic format as specified by the Department. Applications for permit revision need to supply information required under ~~OAR 340-028-2120(3)~~ section (3) of this rule only if it is related to the proposed change. Information required under section (3) of this rule shall be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official shall certify the submitted information is in accordance with section (5) of this rule;

(B) Applications which are obviously incomplete, unsigned, or which do not contain the required exhibits, clearly identified, will not be accepted by the Department for filing and shall be returned to the applicant for completion;

(C) If the Department determines that additional information is necessary before making a completeness determination, it may request such information in writing and set a reasonable deadline for a response. The application will not be considered complete for processing until the adequate information has been received. When the information in the application is deemed adequate, the applicant will be notified that the application is complete for processing;

(D) Unless the Department determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in OAR ~~340-028-2200-218-0120~~(1)(e). If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. If the additional information is not provided by the deadline specified, the application shall be determined to be incomplete, and the application shield shall cease to apply;

(E) Applications determined or deemed to be complete shall be submitted by the Department to the EPA as required by OAR ~~340-028-2310-218-0230~~(1)(a);

(F) The source's ability to operate without a permit, as set forth in ~~340-028-2200-218-0120~~(2), shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Department.

(2) Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(3) Standard application form and required information. Applications shall be submitted on forms and in electronic formats specified by the Department. Information as described below for each emissions unit at an Oregon Title V Operating Permit program source shall be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, including those requirements that apply to categorically insignificant activities, or to evaluate the fee amount required. The application shall include the elements specified below:

(a) Identifying information, including company name and address, plant name and address if different from the company's name, owner's name and agent, and telephone number and names of plant site manager/contact;

(b) A description of the source's processes and products by **Standard Industrial Classification Code** including any associated with each alternative operating scenario identified by the owner or operator and related flow chart(s);

(c) The following emissions-related information for all requested alternative operating scenarios identified by the owner or operator:

(A) All emissions of pollutants for which the source is major, all emissions of regulated air pollutants and all emissions of pollutants listed in OAR ~~340-032-0130-224-0040~~. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under section (3) of this rule. The Department shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed;

(B) Identification and description of all points of emissions described in paragraph (3)(c)(A) of this rule in sufficient detail to establish the basis for fees and applicability of requirements of the FCAA and state rules;

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method and to establish PSELs for all regulated air pollutants except as restricted by OAR ~~340-028-1050222-0060~~ and OAR ~~340-028-1060222-0070~~;

(i) An applicant may request that a period longer than hourly be used for the short term PSEL provided that the requested period is consistent with the means for demonstrating compliance with any other applicable requirement and the PSEL requirement, and:

(I) The requested period is no longer than the shortest period of the Ambient Air Quality Standards for the pollutant, which shall be no longer than daily for VOC and NO_x, or

(II) The applicant demonstrates that the requested period, if longer than the shortest period of the Ambient Air Quality Standards for the pollutant, is the shortest period compatible with source operations.

(ii) The requirements of the applicable rules shall be satisfied for any requested increase in PSELs, establishment of baseline emissions rates, requested emission reduction credit banking, or other PSEL changes.

(D) Additional information as determined to be necessary to establish any alternative emission limit in accordance with OAR ~~340-028-1030226-0400~~, if the permit applicant requests one;

(E) The application shall include a list of all categorically insignificant activities and an estimate of all emissions of regulated air pollutants from those activities which are designated insignificant because of aggregate insignificant emissions. Owners or operators that use more than 100,000 pounds per year of a mixture that contains not greater than 1% by weight of any chemical or compound regulated under Divisions ~~20-200~~ through ~~32-268~~ of this chapter, and not greater than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens shall contact the supplier and manufacturer of the mixture to try and obtain information other than Material Safety Data Sheets in order to quantify emissions;

(F) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel sulfur content, fuel use, raw materials, production rates, and operating schedules;

(G) Any information on pollution prevention measures and cross-media impacts the owner or operator wants the Department to consider in determining applicable control requirements and evaluating compliance methods; and

(H) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements under OAR ~~340-028-0620-226-0120~~(1) and (2);

(I) Identification and description of air pollution control equipment, including estimated efficiency of the control equipment, and compliance monitoring devices or activities;

(J) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the Oregon Title V Operating Permit program source;

(K) Other information required by any applicable requirement, including information related to stack height limitations developed pursuant to OAR ~~340-028-1110212-0130~~;

(L) Calculations on which the information in items (A) through (K) of this section is based;

(d) A plot plan showing the location of all emissions units identified by Universal Transverse Mercator or "UTM" as provided on United States Geological Survey maps and the nearest residential or commercial property;

(e) The following air pollution control requirements:

(A) Citation and description of all applicable requirements, and

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(f) The following monitoring, recordkeeping, and reporting requirements:

(A) A proposed Enhanced Monitoring Protocol as required by the FCAA;

(B) All emissions monitoring and analysis procedures or test methods required under the applicable requirements;

(C) Proposed periodic monitoring to determine compliance where an applicable requirement does not require periodic testing or monitoring;

(D) The proposed use, maintenance, and installation of monitoring equipment or methods, as necessary;

(E) Documentation of the applicability of the proposed Enhanced Monitoring Protocol, such as test data and engineering calculations;

(F) Proposed consolidation of reporting requirements, where possible;

(G) A proposed schedule of submittal of all reports; and

(H) Other similar information as determined by the Department to be necessary to protect human health or the environment or to determine compliance with applicable requirements.

(g) Other specific information that may be necessary to implement and enforce other applicable requirements of the FCAA or state rules or of ~~OAR 340-028-2100 through 340-028-2320~~ this division or to determine the applicability of such requirements;

(h) An explanation of any proposed exemptions from otherwise applicable requirements.

(i) A copy of any existing permit attached as part of the permit application. Owners or operators may request that the Department make a determination that an existing permit term or condition is no longer applicable by supplying adequate information to support such a request. The existing permit term or condition shall remain in effect unless or until the Department determines that the term or condition is no longer applicable by permit modification.

(j) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing off-permit changes for permit renewals;

(k) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing section 502(b)(10) changes for permit renewals;

(l) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing emissions trading under the PSEL including but not limited to proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable if the applicant requests such trading;

(m) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing emissions trading, to the extent that the applicable requirements provide for trading without a case-by-case approval of each emissions trade if the applicant requests such trading;

(n) A compliance plan that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements.

(B) A description as follows:

(i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(C) A compliance schedule as follows:

(i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;

(iii) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance and interim measures to be taken by the source to minimize the amount of excess emissions during the scheduled period. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

(D) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.

(E) The compliance plan content requirements specified in this section shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the FCAA with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(o) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements by a responsible official consistent with section (5) of this rule and section 114(a)(3) of the FCAA;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the FCAA or state rules.

(p) A Land Use Compatibility Statement (LUCS), if applicable, to assure that the type of land use and activities in conjunction with that use have been reviewed and approved by local government before a permit is processed and issued.

(q) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the FCAA.

(r) For purposes of permit renewal, the owner or operator shall submit all information as required in section (3) of this rule. The owner or operator may identify information in its previous permit application for emissions units that should remain unchanged and for which no changes in applicable requirements have occurred and provide copies of the previous permit application for only those emissions units.

(4) Quantifying Emissions:

(a) When quantifying emissions for purposes of a permit application, modification, or renewal an owner or operator shall use the most representative data available or required in a permit condition. The Department shall consider the following data collection methods as acceptable for determining air emissions:

(A) Continuous emissions monitoring system data obtained in accordance with the Department's **Continuous Monitoring Manual (January, 1992)**;

(B) Source testing data obtained in accordance with the Department's **Source Sampling Manual (January, 1992)** except where material balance calculations are more accurate and more indicative of an emission unit's continuous operation than limited source test results (e.g. a volatile organic compound coating operation);

(C) Material balance calculations;

(D) Emission factors subject to Department review and approval; and

(E) Other methods and calculations subject to Department review and approval.

(b) When continuous monitoring or source test data has previously been submitted to and approved by the Department for a particular emissions unit, that information shall be used for quantifying emissions. Material balance calculations may be used as the basis for quantifying emissions when continuous monitoring or source test data exists if it can be demonstrated that the results of material balance calculations are more indicative of actual emissions under normal continuous operating conditions. Emission factors or other methods may be used for calculating emissions when continuous monitoring data, source test data, or material balance data exists if the owner or operator can demonstrate that the existing data is not representative of actual operating conditions. When an owner or operator uses emission factors or other methods as the basis of calculating emissions, a brief justification for the validity of the emission factor or method shall be submitted with the calculations. The Department shall review the validity of the emission factor or method during the permit application review period. When an owner or operator collects emissions data that is more representative of actual operating conditions, either as required under a specific permit condition or for any other requirement imposed by the Department, the owner or operator shall use that data for calculating emissions when applying for a permit modification or renewal. Nothing in this provision shall require owners or operators to conduct monitoring or testing solely for the purpose of quantifying emissions for permit applications, modifications, or renewals.

(5) Any application form, report, or compliance certification submitted pursuant to ~~OAR 340-028-2100 through 340-028-2320~~ this division shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under ~~OAR 340-028-2100 through 340-028-2320~~ this division shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 19-1993, f. & ef. 11-4-93; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2120.

~~340-028-2130-218-0050~~

Standard Permit Requirements

Each permit issued under ~~OAR 340-028-2100 through 340-028-2320~~ this division shall include the following elements:

(1) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance:

(a) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based;

(b) For sources regulated under the national acid rain program, the permit shall state that, where an applicable requirement of the FCAA or state rules is more stringent than an applicable requirement of regulations promulgated under Title IV of the FCAA, both provisions shall be incorporated into the permit and shall be enforceable by the EPA;

(c) For any alternative emission limit established in accordance with ~~OAR 340-028-1030226-0400~~, the permit shall contain an equivalency determination and provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(2) Permit duration. The Department shall issue permits for a fixed term of 5 years in the case of affected sources, and for term not to exceed 5 years in the case of all other sources.

(3) Monitoring and related recordkeeping and reporting requirements:

(a) Each permit shall contain the following requirements with respect to monitoring:

(A) A monitoring protocol to provide accurate and reliable data that:

- (i) Is representative of actual source operation;
- (ii) Is consistent with the averaging time in the permit emission limits;
- (iii) Is consistent with monitoring requirements of other applicable requirements; and
- (iv) Can be used for compliance certification and enforcement.

(B) All emissions monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including OAR ~~340-028-1200~~212-0200 through ~~340-028-1280~~212-0280 and any other procedures and methods that may be promulgated pursuant to sections 504(b) or 114(a)(3) of the FCAA. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;

(C) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to OAR ~~340-028-2130-218-0050~~(3)(c). Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Continuous monitoring and source testing shall be conducted in accordance with the Department's **Continuous Monitoring Manual (January, 1992)** and the **Source Sampling Manual (January, 1992)**, respectively. Other monitoring shall be conducted in accordance with Department approved procedures. The monitoring requirements may include but shall not be limited to any combination of the following:

- (i) Continuous emissions monitoring systems (CEMS);
- (ii) Continuous opacity monitoring systems (COMS);
- (iii) Continuous parameter monitoring systems (CPMS);
- (iv) Continuous flow rate monitoring systems (CFRMS);
- (v) Source testing;
- (vi) Material balance;
- (vii) Engineering calculations;
- (viii) Recordkeeping; or
- (ix) Fuel analysis; and

(D) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods;

(E) A condition that prohibits any person from knowingly rendering inaccurate any required monitoring device or method;

(F) Methods used to determine actual emissions for fee purposes shall also be used for compliance determination and can be no less rigorous than the requirements of OAR ~~340-028-2160-218-0080~~. For any assessable emission for which fees are paid on actual emissions, the compliance monitoring protocol shall include the method used to determine the amount of actual emissions;

(G) Monitoring requirements shall commence on the date of permit issuance unless otherwise specified in the permit.

(b) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(A) Records of required monitoring information that include the following:

- (i) The date, place as defined in the permit, and time of sampling or measurements;
- (ii) The date(s) analyses were performed;
- (iii) The company or entity that performed the analyses;
- (iv) The analytical techniques or methods used;
- (v) The results of such analyses;
- (vi) The operating conditions as existing at the time of sampling or measurement; and
- (vii) The records of quality assurance for continuous monitoring systems (including but not limited to quality control activities, audits, calibrations drifts).

(B) Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit;

(C) Recordkeeping requirements shall commence on the date of permit issuance unless otherwise specified in the permit.

(c) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(A) Submittal of four (4) copies of reports of any required monitoring at least every 6 months, completed on forms approved by the Department. Unless otherwise approved in writing by the Department, six month periods are January 1 to June 30, and July 1 to December 31. The reports required by this rule shall be submitted within 30 days after the end of each reporting period, unless otherwise approved in writing by the Department. One copy of the report shall be submitted to the Air Quality Division, two copies to the regional office, and one copy to the EPA. All instances of deviations from permit requirements shall be clearly identified in such reports:

(i) The semi-annual report shall be due on July 30, unless otherwise approved in writing by the Department, and shall include the semi-annual compliance certification, OAR ~~340-028-2160-218-0080~~;

(ii) The annual report shall be due on February 15, unless otherwise approved in writing by the Department, but shall be due no later than March 15, and shall consist of the annual reporting requirements as specified in the permit; the emission fee report; the emission statement, if applicable, OAR ~~340-028-1520-214-0220~~; the excess emissions upset log, OAR ~~340-028-1440-214-0340~~; the annual certification that the risk management plan is being properly implemented, OAR ~~340-032-5400-224-0230~~; and the semi-annual compliance certification, OAR ~~340-028-2160-218-0080~~.

(B) Prompt reporting of deviations from permit requirements that do not cause excess emissions, including those attributable to upset conditions, as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. "Prompt" means within seven (7) days of the deviation. Deviations that cause excess emissions, as specified in OAR ~~340-028-1400-214-0300~~ through ~~340-028-1460-214-0360~~ shall be reported in accordance with OAR ~~340-028-1440-214-0340~~;

(C) Submittal of any required source test report within 30 days after the source test;

(D) All required reports shall be certified by a responsible official consistent with OAR ~~340-028-2120-218-0040~~(5);

(E) Reporting requirements shall commence on the date of permit issuance unless otherwise specified in the permit.

(d) The Department may incorporate more rigorous monitoring, recordkeeping, or reporting methods than required by applicable requirements in an Oregon Title V Operating Permit if they are contained in the permit application, are determined by the Department to be necessary to determine compliance with applicable requirements, or are needed to protect human health or the environment.

(4) A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the FCAA or the regulations promulgated thereunder:

(a) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement;

(b) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement;

(c) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the FCAA.

(5) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(6) Provisions stating the following:

(a) The permittee shall comply with all conditions of the Oregon Title V Operating Permit. Any permit condition noncompliance constitutes a violation of the FCAA and state rules and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application;

(b) The need to halt or reduce activity shall not be a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit;

(c) The permit may be modified, revoked, reopened and reissued, or terminated for cause as determined by the Department. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition;

(d) The permit does not convey any property rights of any sort, or any exclusive privilege;

(e) The permittee shall furnish to the Department, within a reasonable time, any information that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Department copies of records

required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the EPA along with a claim of confidentiality.

(7) A provision to ensure that an Oregon Title V Operating Permit program source pays fees to the Department consistent with the fee schedule.

(8) Terms and conditions for reasonably anticipated alternative operating scenarios identified by the owner or operator in its application as approved by the Department. Such terms and conditions:

(a) Shall require the owner or operator, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

(b) Shall extend the permit shield described in OAR ~~340-028-2190-218-0110~~ to all terms and conditions under each such alternative operating scenario; and

(c) Shall ensure that the terms and conditions of each such alternative operating scenario meet all applicable requirements and the requirements of OAR ~~340-028-2100 through 340-028-2320~~ this division.

(9) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with the PSELs. Such terms and conditions:

(a) Shall include all terms required under OAR ~~340-028-2130-218-0050~~ and OAR ~~340-028-2160-218-0080~~ to determine compliance;

(b) Shall extend the permit shield described in OAR ~~340-028-2190-218-0110~~ to all terms and conditions that allow such increases and decreases in emissions;

(c) Shall ensure that the trades are quantifiable and enforceable;

(d) Shall ensure that the trades are not Title I modifications;

(e) Shall require a minimum 7-day advance, written notification to the Department and the EPA of the trade that shall be attached to the Department's and the source's copy of the permit. The written notification shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit; and

(f) Shall meet all applicable requirements and requirements of OAR ~~340-028-2100 through 340-028-2320~~ this division.

(10) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emission trade. Such terms and conditions:

(a) Shall include all terms required under OAR ~~340-028-2130-218-0050~~ and OAR ~~340-028-2160-218-0080~~ to determine compliance;

(b) Shall extend the permit shield described in OAR ~~340-028-2190-218-0110~~ to all terms and conditions that allow such increases and decreases in emissions; and

(c) Shall meet all applicable requirements and requirements of OAR ~~340-028-2100 through 340-028-2320~~ this division.

(11) Terms and conditions allowing for off-permit changes, OAR ~~340-028-2220-218-0140~~(2).

(12) Terms and conditions allowing for section 502(b)(10) changes, OAR ~~340-028-2220-218-0140~~(3).

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-2130.

340-028-2140-218-0060

State-Enforceable Requirements

The Department shall specifically designate as not being federally enforceable any terms and conditions included in the permit that are not required under the FCAA or under any of its applicable requirements. Terms and conditions so designated are subject to the requirements of OAR ~~340-028-2120-218-0040~~ through ~~340-028-2300-218-0220~~, other than those contained in OAR ~~340-028-2150-218-0070~~. All terms and conditions in an Oregon Title V Operating Permit are enforceable by the Department.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2140.

340-028-2150218-0070

Federally-Enforceable Requirements

The Department shall specifically designate as being federally enforceable under the FCAA any terms and conditions included in the permit that are required under the FCAA or under any of its applicable requirements. Federally enforceable conditions are subject to enforcement actions by the EPA and citizens.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340-028-2150.

340-028-2160-218-0080

Compliance Requirements

All Oregon Title V Operating Permits shall contain the following elements with respect to compliance:

(1) Consistent with OAR ~~340-028-2130-218-0050~~(3), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit.

(2) A requirement that any document (including but not limited to reports) required by an Oregon Title V Operating Permit shall contain a certification by a responsible official or the designated representation for the acid rain portion of the permit that meets the requirements of OAR ~~340-028-2120-218-0040~~(5).

(3) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Department or an authorized representative to perform the following:

(a) Enter upon the permittee's premises where an Oregon Title V Operating Permit program source is located or emissions-related activity is conducted, or where records shall be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that shall be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(d) As authorized by the FCAA or state rules, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(4) A schedule of compliance consistent with OAR ~~340-028-2120-218-0040~~(3)(n)(c).

(5) Progress reports consistent with an applicable schedule of compliance and OAR ~~340-028-2120-218-0040~~(3)(n)(c) to be submitted at least semi-annually, or at a more frequent period if specified in the applicable requirement or by the Department. Such progress reports shall contain the following:

(a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(6) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(a) The frequency (not less than annually or such more frequent periods as specified in the applicable requirement or by the Department) of submissions of compliance certifications;

(b) In accordance with OAR ~~340-028-2130-218-0050~~(3), a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

(c) A requirement that the compliance certification include all of the following (provided that the identification of applicable information may cross-reference the permit or previous reports, as applicable):

(A) The identification of each term or condition of the permit that is the basis of the certification;

(B) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, and whether such methods or other means provide continuous or intermittent data. Such methods and other means shall include, at a minimum, the methods and means required under OAR ~~340-028-2130-218-0050~~(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the FCAA, which prohibits knowingly making a false certification or omitting material information;

(C) The status of compliance with terms and conditions of the permit for the period covered by the certification, based on the method or means designated in ~~OAR 340-028-2120~~ paragraph (6)(c)(B) of this rule. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to

compliance any periods during which compliance is required and in which an excursion or exceedance as defined under OAR ~~40-028-0110-200-0020~~; and

(D) Such other facts as the Department may require to determine the compliance status of the source.

(d) A requirement that all compliance certifications be submitted to the EPA as well as to the Department; and

(e) Notwithstanding any other provision contained in any applicable requirement, the owner or operator may use monitoring as required under OAR ~~340-028-2130-218-0050~~(3) and incorporated into the permit, in addition to any specified compliance methods, for the purpose of submitting compliance certifications.

(7) Annual certification that the risk management plan is being properly implemented, OAR ~~340-032-5400-224-0230~~.

(8) Such other provisions as the Department may require in order to protect human health or the environment.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468.020 & ORS 468A.310

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 21-1998, f. & cert. ef. 10-14-98; renumbered from OAR 340-028-2160.

340-028-2170-218-0090

General Permits

(1) The Department may, after notice and opportunity for public participation provided under OAR ~~340-028-2290-218-0210~~, issue general permits covering numerous similar sources in specific source categories as defined in section (2) of this rule. General permits shall comply with all requirements applicable to other Oregon Title V Operating Permits.

(2) The owner or operator of an existing major HAP source which meets all of the following criteria may apply to be covered under the terms and conditions of a general permit:

(a) The source is a major source under section 112 of the Act only;

(b) No emissions standard for existing sources, promulgated pursuant to section 112(d) of the FCAA or adopted under OAR 340-032-2500244-0200 through ~~OAR 340-032-5000244-0220~~, applies to the source; and

(c) The Department does not consider the source to be a problem source based on its complaint record and compliance history.

(3) Notwithstanding the shield provisions of OAR ~~340-028-2190-218-0110~~, the source shall be subject to enforcement action for operation without an Oregon Title V Operating Permit if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources under the national acid rain program unless provided in regulations promulgated under Title IV of the FCAA.

(4)(a) Oregon Title V Operating Permit program sources that would qualify for a general permit shall apply to the Department for coverage under the terms of the general permit or shall apply for an Oregon Title V Operating Permit consistent with OAR ~~340-028-2120-218-0040~~.

(b) The Department may, in the general permit, provide for applications which deviate from the requirements of OAR ~~340-028-2120-218-0040~~, provided that such applications meet the requirements of Title V of the FCAA and include all information necessary to determine qualification for, and compliance with, the general permit.

(c) Without repeating the public participation procedures required under OAR ~~340-028-2290-218-0210~~, the Department shall grant an owner's or operator's request for authorization to operate under a general permit if the source meets the applicability criteria for the general permit, but such a grant shall not be a final permit action for purposes of judicial review.

(5) When an emissions limitation applicable to a general permit source is promulgated by the EPA pursuant to 112(d), or adopted by the state pursuant to OAR ~~340-032-0500244-0200~~ through OAR ~~340-032-5000244-0220~~, the source shall:

(a) immediately comply with the provisions of the applicable emissions standard; and

(b)(A) Within 12 months of standard promulgation, apply for an operating permit, pursuant to OAR ~~340-028-2120-218-0040~~, if three (3) or more years are remaining on the general permit term; or

(B) Apply for an operating permit at least 12 months prior to permit expiration, pursuant to OAR ~~340-028-2120-218-0040~~, if less than three (3) years remain on the general permit term.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2170.

40-028-2180218-0100

Temporary Sources

The Department may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation shall be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

- (1) Conditions that will assure compliance with all applicable requirements at all authorized locations;
 - (2) Requirements that the owner or operator notify the Department at least ten days in advance of each change in location;
 - (3) Conditions that assure compliance with land use compatibility; and
 - (4) Conditions that assure compliance with all other provisions of ~~OAR 340-028-2100 through 340-028-2320~~ this division.
- Stat. Auth.: ORS 468.020 & ORS 468A.310
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340-028-2180.

340-028-2190-218-0110

Permit Shield

(1) Except as provided in ~~OAR 340-028-2100 through 340-028-2320~~ this division, the Department shall expressly include in an Oregon Title V Operating Permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

- (a) Such applicable requirements are included and are specifically identified in the permit; or
- (b) The Department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(2) An Oregon Title V Operating Permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(3) Changes made to a permit in accordance with ~~OAR 340-028-2230-218-0150(1)(h) and OAR 340-028-2260-218-0180~~ shall be shielded.

(4) Nothing in this rule or in any Oregon Title V Operating Permit shall alter or affect the following:

- (a) The provisions of ORS 468.115 (enforcement in cases of emergency) and ORS 468.035;
- (b) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;
- (c) The applicable requirements of the national acid rain program, consistent with section 408(a) of the FCAA; or
- (d) The ability of the Department to obtain information from a source pursuant to ORS 468.095 (investigatory authority, access to records).

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2190.

340-028-2200-218-0120

Permit Issuance

(1) Action on application:

(a) A permit, permit modification, or permit renewal may be issued only if all of the following conditions have been met:
(A) The Department has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under ~~OAR 340-028-2170-218-0090~~;

(B) Except for modifications qualifying for minor permit modification procedures under ~~OAR 340-028-2250-218-0170~~, the Department has complied with the requirements for public participation under ~~OAR 340-028-2290-218-0210~~;

(C) The Department has complied with the requirements for notifying and responding to affected States under ~~OAR 340-028-2310-218-0230(2)~~;

(D) The conditions of the permit provide for compliance with all applicable requirements and the requirements of ~~OAR 340-028-2100 through 340-028-2320~~ this division; and

(E) The EPA has received a copy of the proposed permit and any notices required under ~~OAR 340-028-2310-218-0230(1) and (2)~~, and has not objected to issuance of the permit under ~~OAR 340-028-2310-218-0230(3)~~ within the time period specified therein or such earlier time as agreed to with the Department if no changes were made to the draft permit.

(b) When a multiple-source permit includes air contaminant sources subject to the jurisdiction of the Department and the Regional Authority, the Department may require that it shall be the permit issuing agency. In such cases, the Department and

the Regional Authority shall otherwise maintain and exercise all other aspects of their respective jurisdictions over the permittee;

(c) Denial of a Permit. If the Department proposes to deny issuance of a permit, permit renewal, permit modification, or permit amendment, it shall notify the applicant by registered or certified mail of the intent to deny and the reasons for denial. The denial shall become effective 60 days from the date of mailing of such notice unless within that time the applicant requests a hearing. Such a request for hearing shall be made in writing to the Director and shall state the grounds for the request. Any hearing held shall be conducted pursuant to the applicable provisions of ORS Chapter 183;

(d) The Department or Lane Regional Air Pollution Authority is the permitting authority for purposes of the 18 month requirement contained in 42 USC § 7661b(c) and this subsection. Except as provided under the initial transition plan or under regulations promulgated under Title IV of the FCAA or under ~~OAR 340-028-2100 through 340-028-2320~~ this division for the permitting of affected sources under the national acid rain program, the Department shall take final action on each permit application (including a request for permit modification or renewal) within 18 months after receiving a complete application. In the case of any complete permit application containing an early reductions demonstration pursuant to ~~OAR 340-032-0300-224-0100~~, the Department shall take final action within 9 months of receipt;

(e) The Department shall promptly provide notice to the applicant of whether the application is complete. Unless the Department requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. For modifications processed through minor permit modification procedures, ~~OAR 340-028-2250-218-0170(2)~~, the Department shall not require a completeness determination;

(f) The Department shall provide a review report that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The Department shall send this report to the EPA and to any other person who requests it;

(g) The submittal of a complete application shall not affect the requirement that any source have a Notice of Approval in accordance with ~~OAR 340-028-2270-218-0190~~ or a preconstruction permit in accordance with ~~OAR 340-028-1700 through 340-028-1790~~ division 216 or ~~OAR 340-028-1900 through 340-028-2000~~ division 224;

(h) Failure of the Department to take final action on a complete application or failure of the Department to take final action on an EPA objection to a proposed permit within the appropriate time shall be considered to be a final order for purposes of ORS Chapter 183;

(i) If the final permit action being challenged is the Department's failure to take final action, a petition for judicial review may be filed any time before the Department denies the permit or issues the final permit.

(2) Requirement for a permit:

(a) Except as provided in ~~OAR 340-028-2200-218-0120(2)(b)~~, ~~OAR 340-028-2220-218-0140(3)~~, and ~~OAR 340-028-2250-218-0170(2)(d)~~, no Oregon Title V Operating Permit program source may operate after the time that it is required to submit a timely and complete application after the effective date of the program, except in compliance with a permit issued under an Oregon Title V Operating Permit program;

(b) If an Oregon Title V Operating Permit program source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have an Oregon Title V Operating Permit is not a violation of ~~OAR 340-028-2100 through 340-028-2320~~ this division until the Department takes final action on the permit application, except as noted in this ~~section~~ rule. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to ~~OAR 340-028-2200-218-0120(1)(e)~~, and as required by ~~OAR 340-028-2120-218-0040(1)(b)~~, the applicant fails to submit by the deadline specified in writing by the Department any additional information identified as being needed to process the application. If the final permit action being challenged is the Department's failure to take final action, a petition for judicial review may be filed any time before the Department denies the permit or issues the final permit.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2200.

~~340-028-2210-218-0130~~

Permit Renewal and Expiration

(1) Permits being renewed are subject to the same procedural requirements, including those for public participation, affected state and the EPA review, that apply to initial permit issuance; and

(2) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with OAR ~~340-028-2120-218-0040~~(1)(a)(D) and ~~340-028-2200-218-0120~~(2). If a timely and complete renewal application has been submitted, the existing permit shall remain in effect until final action has been taken on the renewal application to issue or deny a permit.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340-028-2210.

340-028-2220-218-0140

Operational Flexibility

Operational flexibility provisions allow owners or operators to make certain changes at their facility without a permit modification. The following sections describe the provisions and the procedures owners or operators shall follow to utilize operational flexibility:

(1) Alternative Operating Scenarios. Owners or operators may identify as many reasonably anticipated alternative operating scenarios in the permit application as possible and request the approval of the Department for incorporation of the scenarios in the permit:

(a) Alternative operating scenarios mean the different conditions, including equipment configurations or process parameters, under which a source can operate that:

(A) Require different terms and conditions in the permit to determine compliance, or

(B) Trigger different applicable requirements;

(b) Alternative operating scenarios shall be identified in the permit application, approved by the Department; and listed in the permit;

(c) Changes between approved alternative operating scenarios listed in the permit can be made at any time. Owners or operators shall contemporaneously record in a log at the permitted facility any change from one alternative operating scenario to another.

(d) Owners or operators are not required to submit the record of changes of alternative operating scenarios on a periodic basis but shall make the record available or submit the record upon the request of the Department.

(e) The permit shield ~~shall~~ extends to all alternative operating scenarios listed in the permit.

(2) Off-permit Changes. Changes that qualify as off-permit do not require Department approval:

(a) Off-permit changes mean changes to a source that:

(A) Are not addressed or prohibited by the permit;

(B) Are not Title I modifications;

(C) Are not subject to any requirements under Title IV of the FCAA;

(D) Meet all applicable requirements;

(E) Do not violate any existing permit term or condition; and

(F) May result in emissions of regulated air pollutants subject to an applicable requirement, but not otherwise regulated under the permit or may result in insignificant changes as defined in OAR ~~340-028-0110-200-0020~~.

(b) Off-permit changes can be made at any time. Owners or operators shall contemporaneously submit written notice to the Department and the EPA, except for changes that qualify as insignificant under OAR ~~340-028-0110-200-0020~~. The written notice shall contain:

(A) A description of the change;

(B) The date on which the change will occur;

(C) Any change in emissions within the PSELs;

(D) Pollutants emitted;

(E) Any applicable requirement that would apply as a result of the change;

(F) Verification that the change is not addressed or prohibited by the permit;

(G) Verification that the change is not a Title I modification, such as an explanation that the change does not meet any of the Title I modification criteria;

(H) Verification that the change is not subject to any requirements under Title IV of the FCAA; and

(I) Verification that the change does not violate any existing permit term or condition.

(c) The permittee shall keep a record describing off-permit changes made at the facility that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those off-permit changes.

(d) Written notifications of off-permit changes shall be attached to the Department's and the source's copy of the permit.

(e) Terms and conditions that result from off-permit changes shall be incorporated into the permit upon permit renewal, if applicable.

(f) The permit shield of OAR ~~340-028-2190-218-0110~~ shall not extend to off-permit changes.

(3) Section 502(b)(10) Changes. Changes that qualify as section 502(b)(10) changes do not require permit revision.

(a) Section 502(b)(10) changes mean changes that contravene an express permit term. Such changes do not include:

(A) Changes that would violate applicable requirements (including but not limited to increases in PSELs);

(B) Changes that contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements; and

(C) Changes that are Title I modifications.

(b) Section 502(b)(10) changes can be made at any time. Owners or operators shall submit a minimum 7-day advance, written notification to the Department and the EPA. The written notice shall contain:

(A) A description of the change;

(B) The date on which the change will occur;

(C) Any change in emissions within the PSELs;

(D) Any permit term or condition that is no longer applicable as a result of the change;

(E) Any new terms or conditions applicable to the change;

(F) Verification that the change does not cause or contribute to a violation of any applicable requirements, such as an explanation that the permit term or condition that is being contravened is not based on an applicable requirement;

(G) Verification that the change does not cause or contribute to an exceedance of the PSELs, such as calculations of emissions resulting from the change in relation to the PSEL; and

(H) Verification that the change is not a Title I modification, such as an explanation that the change does not meet any of the Title I modification criteria.

(c) Written notifications of section 502(b)(10) changes shall be attached to the Department's and the source's copy of the permit.

(d) Terms and conditions that result from section 502(b)(10) changes shall be incorporated into the permit upon permit renewal, if applicable.

(e) The permit shield ~~shall~~ does not extend to section 502(b)(10) changes.

(4) The Department may initiate enforcement if a change under operational flexibility has been initiated and does not meet the applicable operational flexibility criteria.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 24-1994, f. & cert. ef. 10-28-94; renumbered from OAR 340-028-2220.

~~340-028-2230-218-0150~~

Administrative Permit Amendments

(1) An "administrative permit amendment" is a permit revision that:

(a) Corrects typographical errors;

(b) Identifies a change in the name, address, or phone number of the responsible official(s) identified in the permit, or provides a similar minor administrative change at the source;

(c) Allows for a change in the name of the permittee;

(d) Allows for a change in ownership or operational control of a source where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department;

(e) Requires more frequent monitoring or reporting by the permittee;

(f) Allows for a change in the date for reporting or source testing requirements for extenuating circumstances, except when required by a compliance schedule;

(g) Relaxes monitoring, reporting or recordkeeping due to a permanent source shutdown for only the emissions unit(s) being shutdown;

(h) Incorporates into the Oregon Title V Operating Permit the requirements from preconstruction review permits authorized under OAR ~~340-028-1900~~ through ~~340-028-2000~~ division 224 or OAR ~~340-028-2270-218-0190~~, provided that the procedural requirements followed in the preconstruction review are substantially equivalent to the requirements of OAR ~~340-028-2200-218-0120~~ through ~~340-028-2290-218-0210~~ and OAR ~~340-028-2310-218-0230~~ that would be applicable to the change if it were subject to review as a permit modification, compliance requirements are substantially equivalent to those contained in OAR ~~340-028-2130-218-0050~~ through ~~340-028-2190-218-0110~~, and no changes in the construction or operation of the facility that would require a permit modification under OAR ~~340-028-2240-218-0160~~ through ~~340-028-2260-218-0180~~ have taken place; or

(i) Corrects baseline or PSEs when more accurate emissions data is obtained but does not increase actual emissions.

(2) Administrative permit amendments for purposes of the national acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the FCAA.

(3) Administrative permit amendment procedures. An administrative permit amendment shall be made by the Department consistent with the following:

(a) The owner or operator shall promptly submit an application for an administrative permit amendment upon becoming aware of the need for one on forms provided by the Department along with a copy of the draft amendment;

(b) The Department shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this rule;

(c) The Department shall issue the administrative permit amendment in the form of a permit addendum for only those conditions that will change;

(d) The Department shall submit a copy of the permit addendum to the EPA;

(e) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request;

(f) If the source fails to comply with its draft permit terms and conditions upon submittal of the application and until the Department takes final action, the existing permit terms and conditions it seeks to modify may be enforced against it.

(4) The Department shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAR ~~340-028-2190-218-0110~~ only for administrative permit amendments made pursuant to OAR ~~340-028-2230-218-0150~~(1)(h) which meet the relevant requirements of OAR ~~340-028-2130-218-0050~~ through ~~340-028-2320-218-0240~~ for significant permit modifications.

(5) If it becomes necessary for the Department to initiate an administrative amendment to the permit, the Department shall notify the permittee of the intended action by certified or registered mail. The action shall become effective 20 days after the date of mailing unless within that time the permittee makes a written request for a hearing. The request shall state the grounds for the hearing. Any hearing held shall be conducted pursuant to the applicable provisions of ORS Chapter 183.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 24-1994, f. & cf. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2230.

340-028-2240-218-0160

Permit Modification

A permit modification is any revision to an Oregon Title V Operating Permit that cannot be accomplished under the Department's provisions for administrative permit amendments under OAR ~~340-028-2230-218-0150~~. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the FCAA.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2240.

340-028-2250-218-0170

Minor Permit Modifications

(1) Criteria:

(a) Minor permit modification procedures may be used only for those permit modifications that:

(A) Do not violate any applicable requirement;

(B) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

(C) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(D) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

(i) A federally enforceable emissions cap assumed to avoid classification as a Title I modification; and

(ii) An alternative emissions limit approved pursuant to OAR ~~340-032-0300-244-0100~~ through ~~340-032-0380-244-0180~~.

(E) Do not increase emissions over the PSEL;

(F) Are not Title I modifications; and

(G) Are not required by OAR ~~340-028-2260-218-0180~~ to be processed as a significant modification.

(b) Notwithstanding subsection (1)(a) of this rule, minor permit modification procedures may be used for permit modifications involving the use of emissions trading and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the Oregon State Implementation Plan or in applicable requirements promulgated by the EPA.

(2) Minor permit modification procedures. A minor permit modification shall be made by the Department consistent with the following:

(a) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of OAR ~~340-028-2120-218-0040~~(3), shall be submitted on forms and electronic formats provided by the Department, and shall include the following additional information:

(A) A description of the change, the change in emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) The source's suggested draft permit;

(C) Certification by a responsible official, consistent with OAR ~~340-028-2120-218-0040~~(5) of this rule, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(D) Completed forms for the Department to use to notify the EPA and affected states as required under OAR ~~340-028-2310-218-0230~~.

(b) EPA and affected state notification. Within five working days of receipt of a complete minor permit modification application, the Department shall meet its obligation under OAR ~~340-028-2310-218-0230~~(1)(a) and (2)(a) to notify the EPA and affected states of the requested permit modification. The Department promptly shall send any notice required under OAR ~~340-028-2310-218-0230~~(2)(b) to the EPA;

(c) Timetable for issuance. The Department shall not issue a final permit modification until after the EPA's 45-day review period or until the EPA has notified the Department that the EPA will not object to issuance of the permit modification, whichever is first, although the Department can approve the permit modification prior to that time. Within 90 days of the Department's receipt of an application under minor permit modification procedures or 15 days after the end of the EPA's 45-day review period under OAR ~~340-028-2310-218-0230~~(3), whichever is later, the Department shall:

(A) Issue the permit modification as proposed for only those conditions that will change;

(B) Deny the permit modification application;

(C) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

(D) Revise the draft permit modification and transmit to the EPA the new proposed permit modifications as required by OAR ~~340-028-2310-218-0230~~(1).

(d) Source's ability to make change. The source may make the change proposed in its minor permit modification application immediately after it files an application. After the source makes the change, and until the permitting authority takes any of the actions specified in paragraphs (2)(c)(A) through (C) of this rule, the source shall comply with both the applicable requirements governing the change and the draft permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its draft permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it;

(e) The Department may initiate enforcement if the modification has been initiated and does not meet the minor permit modification criteria;

(f) Permit shield. The permit shield under OAR ~~340-028-2190-218-0110~~ shall ~~does~~ not extend to minor permit modifications.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340--28-2250.

~~340-028-2260-218-0180~~

Significant Permit Modifications

(1) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Significant modifications shall include:

(a) Increases in PSEs except those increases subject to OAR ~~340-028-1900 through 340-028-2000~~ division 224; OAR ~~340-028-2230-218-0150(1)(i)~~; or OAR ~~340-028-2270-218-0190~~;

(b) Every significant change in existing monitoring permit terms or conditions;

(c) Every relaxation of reporting or recordkeeping permit terms or conditions;

(d) Incorporation into the Oregon Title V Operating Permit the requirements from pre-construction review permits authorized under OAR ~~340-028-1900 through 340-028-2000~~ division 224 unless the incorporation qualifies as an administrative amendment;

(e) Incorporation into the Oregon Title V Operating Permit the requirements from preconstruction review permits authorized under OAR ~~340-028-2270-218-0190~~ unless otherwise specified in OAR ~~340-028-2270-218-0190(3)(g)~~; and

(f) Nothing herein shall be construed to preclude the permittee from making changes consistent with ~~OAR 340-028-2100 through 340-028-2320~~ this division that would render existing permit compliance terms and conditions irrelevant.

(2) Significant permit modifications shall be subject to all requirements of ~~OAR 340-028-2100 through 340-028-2320~~ this division, including those for applications, public participation, review by affected States, and review by the EPA, as they apply to permit issuance and permit renewal.

(3) Major modifications, as defined in OAR ~~340-028-0110-200-0020~~, shall require an ACDP under OAR ~~340-028-1900 through 340-028-2000~~ division 224.

(4) ~~Modifications at sources which are~~ Constructed and reconstructed major hazardous air pollutant sources that cause increases of emissions of HAP greater than de minimis are subject to OAR ~~340-028-2270-218-0190~~ and OAR ~~340-032-4500-244-0200~~.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2260.

~~340-028-2270-218-0190~~

Construction/Operation Modifications

(1) Scope. This regulation ~~shall apply~~ ies to:

(a) Any stationary source; and

(b) Any air pollution control equipment used to comply with a Department requirement.

(2) Requirement:

(a) No owner or operator shall construct, fabricate, erect, install, establish, develop or operate a new stationary source or air pollution control equipment listed in ~~OAR 340-028-2270~~ section (1) of this rule without first notifying the Department in writing and obtaining approval.

(b) No owner or operator shall make any physical change or change in the method of operation that the source is physically unable to accommodate or replace any stationary source or air pollution control equipment listed in ~~OAR 340-028-2270~~ section (1) of this rule, covered by a permit under OAR ~~340-028-2100 through 340-028-2320~~ this division, without first notifying the Department in writing and obtaining approval if:

(A) Any stationary source's maximum capacity to emit any regulated air pollutant, excluding those pollutants listed in OAR ~~340-032-0130-244-0040~~ or ~~340-032-5400-244-0230~~, is increased on an hourly basis at full production, including air pollution control equipment; or

(B) The performance of any pollution control equipment used to comply with a Department requirement is degraded using an increase of the amount of any air pollutant emitted or which results in the emission of any air pollutant not previously emitted (excluding routine maintenance).

(c) No owner or operator shall ~~make any physical change in, or change in the method of operation of, a major source that increases the actual emissions of any hazardous air pollutant (HAP) emitted by such source by more than a de minimis amount or which results in the emission of any HAP not previously emitted by more than a de minimis amount, construct or reconstruct a major source of hazardous air pollutants~~ without first notifying the Department in writing and obtaining approval if the source becomes subject to OAR ~~340-032-4500~~244-0200.

(3) Procedure:

(a) Notice. Any owner or operator required to obtain approval for a new, modified, or replaced stationary source or air pollution control equipment listed in OAR ~~340-028-2270~~section (1) of this rule shall notify the Department in writing on a form supplied by the Department.

(b) Submission of Plans and Specifications. The Department shall require the submission of plans and specifications for any stationary source or air pollution control equipment listed in OAR ~~340-028-2270~~section (1) of this rule being constructed or modified and its relationship to the production process. The following information shall be required for a complete application for a Notice of Approval:

(A) Name, address, and nature of business;

(B) Name of local person responsible for compliance with these rules;

(C) Name of person authorized to receive requests for data and information;

(D) A description of the constructed or modified source;

(E) A description of the production processes and a related flow chart for the constructed or modified source;

(F) A plot plan showing the location and height of the constructed or modified stationary source. The plot plan shall also indicate the nearest residential or commercial property;

(G) Type and quantity of fuels used;

(H) The change in the amount, quantities emitted, nature and duration of regulated air pollutant emissions;

(I) Any information on pollution prevention measures and cross-media impacts the owner or operator wants the Department to consider in determining applicable control requirements and evaluating compliance methods;

(J) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements under OAR ~~340-028-0620-226-0120~~(1) and (2);

(K) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;

(L) Land Use Compatibility Statement signed by a local (city or county) planner either approving or disapproving construction or modification to the source if required by the local planning agency;

(M) Corrections and revisions to the plans and specifications to insure compliance with applicable rules, orders and statutes; and

(N) Sufficient information for the Department to determine applicable emission limitations and requirements for hazardous air pollutant sources.

(c) Notice of Approval:

(A) For construction or modification of any stationary source or air pollution control equipment listed in OAR ~~340-028-2270~~section (1) of this rule that does not increase emissions above the facility-wide PSEL; or does not increase the amount of any air pollutant emitted by any individual stationary source above the significant emission rate, excluding any emissions decreases; or does not establish a federally enforceable limit on potential to emit; or does not establish a new applicable requirement as a result of a TACT determination under OAR ~~340-028-0630-226-0130~~ or a MACT determination under OAR ~~340-032-4500~~244-0200:

(i) The Department shall, upon determining that the proposed construction or modification is, in the opinion of the Department, in accordance with the provisions of applicable rules, order, and statutes, notify the owner or operator that construction may proceed within 60 days of receipt of the required information;

(ii) A Notice of Approval to proceed with construction or modification shall allow the owner or operator to construct or modify the stationary source or air pollution control equipment listed in OAR ~~340-028-2270~~section (1) of this rule and operate it in accordance with provisions under OAR ~~340-028-2220-218-0140~~, ~~340-028-2230-218-0150~~ or ~~340-028-2240-218-0160~~, whichever is applicable.

(iii) A Notice of Approval to proceed with construction or modification shall not relieve the owner or operator of the obligation of complying with applicable emission standards and orders.

(B) For construction or modification of any stationary source or air pollution control equipment listed in ~~OAR 340-028-270~~ section (1) of this rule that increases emissions above the facility-wide PSEL; or increases the amount of any air pollutant emitted by any individual stationary source above the significant emission rate, excluding any emissions decreases; or establishes a federally enforceable limit on potential to emit; or establishes a new applicable requirement as a result of a TACT determination under ~~OAR 340-028-0630-226-0130~~:

(i) The Department shall upon determining that the proposed construction or modification is in the opinion of the Department in accordance with the provisions of applicable rules, order, and statutes, issue public notice as to the intent to issue an approval for construction or modification within 180 days of receipt of the required information;

(ii) The public notice shall allow at least thirty (30) days for written comment from the public, and from interested State and Federal agencies, prior to issuance of the approval. Public notice shall include the name and quantities of new or increased emissions for which permit limits are proposed, or new or increased emissions which exceed significant emission rates established by the Department;

(iii) In addition to the information required under OAR 340-011-0007, public notices for approval of construction or modification shall contain a determination of:

(I) Whether the proposed permitted emission would have a significant impact on a Class I airshed;

(II) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment or nonattainment for that pollutant; and

(III) For each major source within an attainment area for which dispersion modeling has been performed as a requirement of the Notice of Approval, an indication of what impact each proposed permitted emission would have on the Prevention of Significant Deterioration Program within that attainment area;

(iv) The owner or operator may request that the external review procedures required under ~~OAR 340-028-2290-218-0210~~ and ~~OAR 340-028-2310-218-0230~~ be used instead of the notice procedures under ~~subparagraphs (3)(c)(B)(ii) and (iii) of this rule~~ to allow for subsequent incorporation of the Notice of Approval as an administrative amendment. The public notice shall state that the external review procedures are being used, if the applicant requests them;

(v) If, within 30 days after commencement of the public notice period, the Department receives written requests from ten (10) persons, or from an organization or organizations representing at least ten persons, for a public hearing to allow interested persons to appear and submit oral or written comments on the proposed provisions, the Department shall provide such a hearing before taking final action on the application, at a reasonable place and time and on reasonable notice. Requests for public hearing shall clearly identify the air quality concerns in the draft permit;

(vi) The Department shall give notice of any public hearing at least 30 days in advance of the hearing. Notice of such a hearing may be given, ~~in~~ at the Department's discretion, either in the public notice under ~~340-028-2290~~ section (1) of this rule or in such other manner as is reasonably calculated to inform interested persons;

(vii) After the public notice period and the public hearing, if requested, the Department shall, upon determining that the proposed construction or modification is, in the opinion of the Department, in accordance with the provisions of applicable rules, order, and statutes, notify the owner or operator that construction may proceed;

(viii) A Notice of Approval to proceed with construction or modification shall allow the owner or operator to construct or modify the stationary source or air pollution control equipment listed in ~~OAR 340-028-2270-218-0190(1)~~ and operate it in accordance with provisions under ~~OAR 340-028-2220-218-0140~~, ~~340-028-2230-218-0150~~, or ~~340-028-2240-218-0160~~, whichever is applicable;

(ix) A Notice of Approval to proceed with construction or modification shall not relieve the owner or operator of the obligation of complying with applicable emission standards and orders;

(d) Order Prohibiting Construction:

(A) If within the 60 day or 180 day review period, whichever is applicable, the Director determines that the proposed construction or modification is not in accordance with applicable statutes, rules, regulations and orders, the Director shall issue an order prohibiting the construction or modification of the stationary source or air pollution control equipment listed in ~~OAR 340-028-2270~~ section (1) of this rule. Said order is to be forwarded to the owner by certified mail. The Department shall issue public notice as to the intent to prohibit construction in accordance with ~~OAR 340-028-2270-218-0190(3)(c)(B)(ii)~~ and (iii).

(B) Failure to issue such order within the 60 day or 180 day review period shall be considered a determination that the proposed construction, installation, or establishment may proceed, provided that it is in accordance with plans, specifications, and any corrections or revisions thereto, or other information, if any, previously submitted, and provided further that it shall not relieve the owner of the obligation of complying with applicable emission standards and orders;

(e) Hearing. Pursuant to law, an owner or operator against whom an order prohibiting construction is directed may within .0 days from the date of mailing of the order, demand a hearing. The demand shall be in writing, state the grounds for hearing, and be mailed to the Director of the Department. The hearing shall be conducted pursuant to the applicable provisions of ORS Chapter 183;

(f) Notice of Completion. Within thirty (30) days, or other period specified in the Oregon Title V Operating Permit, after any owner or operator has constructed or modified a stationary source or air pollution control equipment listed in ~~OAR 340-028-2270~~ section (1) of this rule, that owner or operator shall so report in writing on a form furnished by the Department, stating the date of completion of construction or modification and the date the stationary source or air pollution control equipment was or will be put in operation;

(g) Incorporation into an Oregon Title V Operating Permit:

(A) Where an Oregon Title V Operating Permit would allow incorporation of such construction or modification as an off-permit change (~~OAR 340-028-2220-218-0140(2)~~) or a FCAA section 502(b)(10) change (~~OAR 340-028-2220-218-0140(3)~~):

(i) The owner or operator of the stationary source or air pollution control equipment listed in ~~OAR 340-028-2270~~ section (1) of this rule shall submit to the Department the applicable notice, and

(ii) The Department shall incorporate the construction or modification at permit renewal, if applicable.

(B) Where an Oregon Title V Operating Permit would allow incorporation of such construction or modification as an administrative amendment (~~OAR 340-028-2230-218-0150~~), the owner or operator of the stationary source or air pollution control equipment listed in ~~OAR 340-028-2270~~ section (1) of this rule may:

(i) Submit the permit application information required under ~~OAR 340-028-2230-218-0150(3)~~ with the information required under ~~OAR 340-028-2270~~ subsection (3)(b) of this rule upon becoming aware of the need for an administrative amendment; and

(ii) Request that the external review procedures required under ~~OAR 340-028-2290-218-0210~~ and ~~OAR 340-028-2310-218-0230~~ be used instead of the notice procedures under ~~OAR 340-028-2270~~ subparagraphs (3)(c)(B)(ii) and (iii) of this rule to allow for subsequent incorporation of the construction permit as an administrative amendment.

(C) Where an Oregon Title V Operating Permit would require incorporation of such construction or modification as a minor permit modification (~~OAR 340-028-2250-218-0170~~) or a significant permit modification (~~OAR 340-028-2260-218-0180~~), the owner or operator of the stationary source or air pollution control equipment listed in ~~OAR 340-028-2270~~ section (1) of this rule shall submit the permit application information required under ~~OAR 340-028-2120-218-0040(3)~~ within one year of initial startup of the construction or modification, except as prohibited in paragraph ~~(3)(g)(D)~~ of this rule.

(D) Where an existing Oregon Title V Operating Permit would prohibit such construction or change in operation, the owner or operator must obtain a permit revision before commencing operation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under ~~OAR 340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2270.

~~340-028-2280-218-0200~~

Reopenings

(1) Reopening for cause:

(a) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

(A) Additional applicable requirements under the FCAA or state rules become applicable to a major Oregon Title V Operating Permit program source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to ~~OAR 340-028-2210-218-0130~~;

(B) Additional requirements (including excess emissions requirements) become applicable to an affected source under the national acid rain program. Upon approval by the EPA, excess emissions offset plans shall be deemed to be incorporated into the permit;

(C) The Department or the EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit;

(D) The Department or the EPA determines that the permit shall be revised or revoked to assure compliance with the applicable requirements;

(E) The Department determines that the permit shall be revised or revoked to assure compliance with the National Ambient Air Quality Standards (NAAQS);

(b) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable;

(c) Reopenings under ~~OAR 340-028-2280~~ subsection (1)(a) of this rule shall not be initiated before a notice of such intent is provided to the source by the Department at least 30 days in advance of the date that the permit is to be reopened, except that the Department may provide a shorter time period in the case of an emergency.

(2) Reopening for cause by the EPA:

(a) The Department shall, within 90 days after receipt of a notification from the EPA of reopening for cause, forward to the EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The EPA may extend this 90-day period for an additional 90 days if the EPA finds that a new or revised permit application is necessary or that the permittee shall submit additional information;

(b) The Department shall have 90 days from receipt of an EPA objection to resolve any objection that the EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the EPA's objection or determine not to reissue the permit in accordance with the EPA's objection;

(c) The Department shall provide at least 30 days' notice to the permittee in writing of the reasons for any such action and provide an opportunity for a hearing;

(d) Proceedings to terminate, revoke, or modify and reissue a permit initiated by the EPA shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable by the Department.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2280.

340-028-2290-218-0210

Public Participation

Except for modifications qualifying for minor permit modification procedures and administrative amendments, all permit proceedings, including initial permit issuance, significant modifications, construction/operation modifications when there is an increase of emissions above the PSEL, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures shall include the following:

(1) Notice shall be given: by publication in a newspaper of general circulation in the area where the source is located or in a Department publication designed to give general public notice; to persons on a mailing list developed by the Department, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public.

(2) The notice shall identify:

(a) The affected facility;

(b) The name and address of the permittee;

(c) The name and address of the Department processing the permit;

(d) The activity or activities involved in the permit action;

(e) The emissions change involved in any permit modification;

(f) The name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, except for information entitled to confidential treatment, and all other materials available to the Department that are relevant to the permit decision are available for review;

(g) A brief description of the comment procedures required by ~~OAR 340-028-2100 through 340-028-2320~~ this division; and

(h) A brief description of the procedures to request a hearing or the time and place of any hearing that may be held;

(3) The Department shall provide such notice and opportunity for participation by affected States as is provided for by ~~OAR 340-028-2310-218-0230.~~

(4) Timing:

(a) The Department shall provide at least 30 days for public comment;

(b) If, within 30 days after commencement of the public notice period, the Department receives written requests from ten (10) persons, or from an organization or organizations representing at least ten persons, for a public hearing to allow interested persons to appear and submit oral or written comments on the proposed provisions, the Department shall provide such a hearing before taking final action on the application, at a reasonable place and time and on reasonable notice. Requests for public hearing shall clearly identify the air quality concerns in the draft permit;

(c) The Department shall give notice of any public hearing at least 30 days in advance of the hearing. Notice of such a hearing may be given, ~~in~~ at the Department's discretion, either in the public notice under ~~340-028-2290~~ section (1) of this rule or in such other manner as is reasonably calculated to inform interested persons.

(5) The Department shall consider all relevant written comments submitted within a time specified in the notice of public comment and all relevant comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision.

(6) The Department shall keep a record of the commenters and also of the issues raised during the public participation process and such records shall be available to the public in the same location(s) as listed in ~~OAR 340-028-2290~~ subsection (2)(f)(4) of this rule. Such record may be in summary form rather than a verbatim transcript.

(7) Any person who submitted written or oral comments during the public participation process described in this rule shall be an adversely affected or aggrieved person for purposes of ORS 183.484.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2290.

~~340-028-2300-218-0220~~

Contested Permits

(1) A final permit issued by the Department shall become effective upon the date it was signed by the Air Quality Division Administrator or his or her designated representative, unless the applicant requests a hearing before the Commission or its authorized representative. A final permit issued by LRAPA shall become effective upon the date it was signed by the LRAPA Director or his or her designated representative, unless the applicant requests a hearing before LRAPA's Board of Directors.

(2) The request for hearing must be in writing within 20 days of the date of mailing of the notification of issuance of the permit. The applicant shall specify which permit conditions are being challenged and why, including each alleged factual or legal objection.

(3)(a) Permit conditions that are not contested, including any conditions that are severable from those contested, shall be in effect upon the date the permit was signed by the Air Quality Division Administrator or the LRAPA Director;

(b) Upon such request for review, the effect of the contested conditions, as well as any conditions that are not severable from those contested, shall be stayed only upon a showing that, during the pendency of the appeal, compliance with the contested conditions would require substantial expenditures or losses that would not be incurred if the applicant prevails on the merits of the review; and also that there exists a reasonable likelihood of success on the merits. The Commission may require that the contested conditions not be stayed if it finds that substantial endangerment of public health or welfare would result from the staying of the conditions. The Commission must deny or grant the stay within 30 days.

(4) If an applicant requests a hearing pursuant to this section, then any adversely affected or aggrieved person, as those terms have been construed under ORS Chapter 183, may petition the Commission to be allowed to intervene in the contested case hearing to challenge any permit condition. This petition must be in writing and must be filed with the Commission at least 21 days before the date set for hearing. It shall specify which permit conditions are being challenged and the reasons for those challenges, including each alleged factual or legal objection.

(5) Any hearing held under this section shall be conducted pursuant to the applicable provisions of ORS Chapter 183 and OAR Chapter 340, Division 11.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340-028-2300.

~~340-028-2310-218-0230~~

Permit Review by the EPA and Affected States

(1) Transmission of information to the EPA:

(a) The Department shall provide to the EPA a copy of each permit application (including any application for permit modification), each proposed permit except when a draft permit has been submitted and the EPA determines that the submittal of the draft permit is adequate, and each final Oregon Title V Operating Permit;

(b) The requirements of OAR ~~340-028-2310-218-0230~~(1)(a) and (2)(a) may be waived for any category of sources (including any class, type, or size within such category) other than major sources if allowed by the EPA;

(c) The Department shall keep for 5 years such records and submit to the EPA such information as the EPA may reasonably require to ascertain whether the Department program complies with the requirements of the FCAA or state rules or of OAR ~~340-028-2100 through 340-028-2320~~this division.

(2) Review by affected states:

(a) The Department shall give notice of each draft permit to any affected State on or before the time that the Department provides this notice to the public under OAR ~~340-028-2290-218-0210~~, except to the extent that OAR ~~340-028-2250-218-0170~~ requires the timing of the notice to be different;

(b) The Department, as part of the submittal of the proposed permit to the EPA (or as soon as possible after the submittal for minor permit modification procedures allowed under OAR ~~340-028-2250-218-0170~~), shall notify the EPA and any affected State in writing of any omission by the Department of any recommendations for the proposed permit that the affected State submitted during the public or affected State review period. The notice shall include the Department's reasons for not accepting any such recommendation. The Department is not required to accept recommendations that are not based on applicable requirements or the requirements of OAR ~~340-028-2100 through 340-028-2320~~this division.

(3) EPA objection:

(a) No permit for which an application shall be transmitted to the EPA under OAR ~~340-028-2310~~section (1) of this rule shall be issued as drafted if the EPA objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information or such earlier time as agreed to by the EPA;

(b) The Department shall, within 90 days after the date of an objection under OAR ~~340-028-2310~~subsection (3)(a) of this rule, revise and submit a proposed permit in response to the objection, or determine not to issue the permit;

(c) If the Department determines not to issue the permit, notice of the determination shall be provided to the source by certified or registered mail.

(4) Public petitions to the EPA:

(a) If the EPA does not object in writing under OAR ~~340-028-2310~~section (3), any person may petition the EPA within 60 days after the expiration of the EPA's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in OAR ~~340-028-2290-218-0210~~, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period;

(b) If the EPA objects to the permit as a result of a petition filed under this section, the Department shall not issue the permit until the EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection;

(c) If the Department has issued a permit prior to receipt of an EPA objection under OAR ~~340-028-2310-218-0230~~, the EPA will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in OAR ~~340-028-2280-218-0200~~(2)(b) except in unusual circumstances, and the Department may thereafter issue only a revised permit that satisfies the EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(5) Prohibition on default issuance. The Department shall not issue an Oregon Title V Operating Permit (including a permit renewal or modification) until affected States and the EPA have had an opportunity to review the proposed permit as required under this rule.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2310.

~~40-028-2320-218-0240~~

Enforcement

(1) Whenever it appears to the Department that any activity in violation of a permit that results in air pollution or air contamination is presenting an imminent and substantial endangerment to the public health, the Department may enter a cease and desist order pursuant to ORS 468.115 or seek injunction relief pursuant to ORS 468.100.

(2)(a) Whenever the Department has good cause to believe that any person is engaged in or about to engage in acts or practices that constitute a violation of any part of the stationary source air permitting rules contained in this Division or any provision of a permit issued pursuant to these rules, the Department may seek injunctive relief in court to enforce compliance thereto or to restrain further violations;

(b) The proceedings authorized by subsection (a) of this section may be instituted without the necessity of prior agency revocation of the permit or during a permit revocation proceeding if one has been commenced.

(3) In addition to the enforcement authorities contained in sections (1) and (2) of this rule and any other penalty provided by law, any person who violates any of the following shall incur a civil penalty as authorized under ORS 468.140 and established pursuant to OAR Chapter 340, Division 12:

- (a) Any applicable requirement;
- (b) Any permit condition;
- (c) Any fee or filing requirements;
- (d) Any duty to allow or carry out inspection, entry or monitoring activities; or
- (e) Any rules or orders issued by the Department.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340-028-2320.

340-028-1790 218-0250

Permit Program For Regional Air Pollution Authority

Subject to the provisions of this rule, the Commission authorizes the Regional Authority to issue, modify, renew, suspend, and revoke ~~ACDPs~~ or Oregon Title V Operating Permits for air contamination sources within its jurisdiction:

(1) Each permit proposed to be issued or modified by the Regional authority shall be submitted to the Department at least thirty (30) days prior to the proposed issuance date.

(2) A copy of each permit issued, modified, or revoked by the Regional authority shall be promptly submitted to the Department.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0185; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-1790.

DIVISION 220

OREGON TITLE V OPERATING PERMIT FEES

Oregon Title V Operating Permit Fees

340-028-2560220-0010

Purpose, Scope And Applicability

(1) The purpose of ~~OAR 340-028-2560~~ through ~~340-028-2740~~ this division is to provide owners and operators of major sources and the Department with the criteria and procedures to determine emissions and fees based on air emissions and specific activities.

(2) ~~OAR 340-028-2560~~ through ~~340-028-2740~~ This division ~~apply~~ applies to major sources as defined in ~~OAR 340-028-0110200-0020~~.

(3) The owner or operator may elect to pay emission fees for each assessable emission on:

- (a) Actual emissions, or
- (b) Permitted emissions.

(4) If the assessable emission is of a regulated air pollutant listed in ~~OAR 340-032-0130244-0040~~ and there are no applicable methods to demonstrate actual emissions, the owner or operator may propose that the Department approve an emission factor based on the best representative data to demonstrate actual emissions for fee purposes.

(5) Major sources subject to the Oregon Title V Operating Permit program defined in ~~340-028-0110200-0020~~, are subject to the following fees:

- (a) Emission fees, (~~OAR 340-028-2610220-0040~~), and
- (b) Annual base fee of \$2,500 per source (~~OAR 340-028-2580220-0030~~).

(6) Major sources subject to the Oregon Title V Operating Permit program may also be subject to user fees (~~OAR 340-028-2600220-0050~~ and ~~340-028-1750216-0090~~).

(7) The Department shall credit owners and operators of major sources subject to the first year of the Oregon Title V Operating Permit Fees for Annual Compliance Determination Fees paid for any period after October 1, 1994.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; renumbered from OAR 340-028-2560.

340-220-0020

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 OAR 340-200-0020 or 340-218-0030, the definition in this rule applies to this division.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.:

340-028-2580220-0030

Annual Base Fee

(1) The Department shall assess an annual base fee of \$2,777 for each major source subject to the Oregon Title V Operating Permit program.

(2) The annual base fee shall be paid to cover the period from November 15 of the current calendar year to November 14 of the following year.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; renumbered from OAR 340-028-2580.

340-028-2590220-0040

Emission Fee

(1) Based on the Oregon Title V Operating Permit Program Budget, prepared by the Department and approved by the 1993 Oregon Legislature, the Commission determines that an emission fee of \$32.50 per ton is necessary to cover all reasonable direct and indirect costs of implementing the Oregon Title V operating permit program.

(2) The emission fee shall be applied to emissions from the previous calendar year based on the elections made according to OAR ~~340-028-2640220-0190~~.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; renumbered from OAR 340-028-2590.

~~340-028-2600220-0050~~

Specific Activity Fees

Specific activity fees shall be assessed by the Department for a major source with any one of the following activities:

(1) Existing Source Permit Revisions:

(a) Administrative* — \$278;

(b) Simple — \$1,110;

(c) Moderate — \$8,330;

(d) Complex — \$16,660.

(2) Ambient Air Monitoring Review — \$2,221.

*includes revisions specified in OAR ~~340-028-2230218-0150~~(1)(a) through (g). Other revisions specified in OAR ~~340-028-2230218-0150~~ are subject to simple, moderate or complex revision fees.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1998, f. & cert. ef. 6-30-98; renumbered from OAR 340-228-2600.

~~340-028-2610-220-0060~~

Pollutants Subject to Emission Fees

(1) The Department shall assess emission fees on assessable emissions up to and including 4,000 tons per year for each regulated pollutant.

(2) If the emission fee on PM₁₀ emissions is based on the permitted emissions for a major source that does not have a PSEL for PM₁₀, the Department shall assess the emission fee on the permitted emissions for particulate matter (PM).

(3) The owner or operator shall pay emission fees on all assessable emissions.

(4) The Department shall assess emission fees only once for a regulated air pollutant that the permittee can demonstrate, using procedures approved by the Department, is accounted for in more than one category of assessable emissions (e.g., a Hazardous Air Pollutants that is also demonstrated to be a Criteria Pollutant).

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-028-2610.

~~340-028-2620220-0070~~

Exclusions

(1) The Department shall not assess emission fees on newly permitted major sources that have not begun initial operation.

(2) The Department shall not assess emission fees on carbon monoxide. However, sources that emit or are permitted to emit 100 tons or more per year of carbon monoxide are subject to the emission fees on all other regulated air pollutants pursuant to OAR ~~340-028-2560220-0010~~.

(3) The Department shall not assess emission fees on any device or activity which did not operate at any time during the calendar year.

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

(5) The Department shall not assess emission fees on emissions categorized as credits or unassigned PSELs within a federal operating permit. However, credits and unassigned PSELs shall be included in determining whether a source is a major source, as defined in OAR ~~340-028-0110~~200-0020.

(6) The Department shall not assess emission fees on categorically insignificant emissions as defined in OAR ~~340-028-0110~~200-0020.

(7) The Department shall not assess emission fees on Hazardous Air Pollutants that are also Criteria Pollutants.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-028-2620.

340-028-2630220-0080

References

Reference documents used in ~~OAR 340-028-2560 through 340-028-2740~~this division include the **Department Source Sampling Manual and the Department Continuous Monitoring Manual**.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 13-1994, f. & ef. 5-19-94; renumbered from OAR 340-028-2630.

340-028-2640220-0090

Election For Each Assessable Emission

(1) The owner or operator shall make an election to pay emission fees on either actual emissions or permitted emissions or a combination of both for the previous calendar year for each assessable emission and notify the Department in accordance with OAR ~~340-028-2660~~220-0110.

(2) The owner or operator may elect to pay emission fees on permitted emissions for hazardous air pollutants. An owner or operator may elect a Hazardous Air Pollutant PSEL in accordance with OAR ~~340-028-1050~~222-0060. The HAP PSEL shall only be used for fee purposes.

(3) If an owner or operator fails to notify the Department of the election for an assessable emission, the Department shall assess emission fees for the assessable emission based on permitted emissions.

(4) If the permit or review report does not identify permitted emissions for an assessable emission, the Department shall develop permitted emissions representative of the assessable emissions.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-028-2640.

340-028-2650220-0100

Emission Reporting

(1) The owner or operator shall, using a form(s) developed by the Department, report the following for each assessable emission or group of assessable emissions :

(a) PM₁₀, or if permit specifies Particulate Matter (PM), then PM;

(b) Sulfur Dioxide as SO₂;

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

(d) Total Reduced Sulfur (TRS) as H₂S in accordance with OAR ~~340-025-0150~~234-0010;

(e) Volatile Organic Compounds as:

(A) VOC for material balance emission reporting; or

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

(f) Fluoride as F;

(g) Lead as Pb;

(h) Hydrogen Chloride as HCl;

- (i) Estimate of Hazardous Air Pollutants as specified in a Department approved method.
- (2) The owner or operator shall report emissions in tons per year and as follows:
 - (a) Round up to the nearest whole ton for emission values 0.5 and greater; and
 - (b) Round down to the nearest whole ton for emission values less than 0.5.
- (3) The owner or operator electing to pay emission fees on actual emissions shall:
 - (a) Submit complete information on the forms including all assessable emissions; and
 - (b) Submit documentation necessary to support emission calculations.
- (4) The owner or operator electing to pay on actual emissions for an assessable emission shall report total emissions including those emissions in excess of 4,000 tons for each assessable emission.
- (5) The owner or operator electing to pay on permitted emissions for an assessable emission shall identify such an election on the form(s) developed by the Department.
- (6) If more than one permit is in effect for a calendar year for a major source, the owner or operator electing to pay on permitted emissions shall pay on the most current permitted or actual emissions.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 20-1993(T), f. & ef. 11-4-93; DEQ 13-1994, f. & ef. 5-19-94; DEQ 24-1994, f. & ef. 10-28-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-028-2650.

340-028-2660220-0110

Emission Reporting and Fee Procedures

- (1) The owner or operator shall submit the form(s), including the owner's or operator's election for each assessable emission, to the Department with the annual permit report in accordance with annual reporting procedures.
- (2) The owner or operator may request that information, other than emission information, submitted pursuant to ~~OAR 340-028-2560 through 340-028-2740~~ this division be exempt from disclosure in accordance with ~~OAR 340-028-0400214-0130.~~
- (3) Records developed in accordance with these rules are subject to inspection and entry requirements in ~~OAR 340-028-160218-0080.~~ The owner or operator shall retain records for a period of at least five years in accordance with ~~OAR 340-028-2130218-0050(3)(b)(B).~~
- (4) The Department may accept information submitted or request additional information from the owner or operator. The owner or operator shall submit additional actual emission information requested by the Department within 30 days of receiving a request from the Department. The Department may approve a request from an owner or operator for an extension of time of up to 30 days to submit additional information under extenuating circumstances.
- (5) If the Department determines the actual emission information submitted for any assessable emission does not meet the criteria in ~~OAR 340-028-2560 through 340-028-2740~~ this division, the Department shall assess the emission fee on the permitted emission for that assessable emission.
- (6) The owner or operator shall submit emission fees payable to the Department by the later of:
 - (a) August 1 for emission fees from the previous calendar year; or
 - (b) Thirty days after the Department mails the fee invoice.
- (7) Department acceptance of emission fees shall not indicate approval of data collection methods, calculation methods, or information reported on Emission Reporting Forms. If the Department determines initial emission fee assessments were inaccurate or inconsistent with ~~OAR 340-028-2560 through 340-028-2740~~ this division, the Department may assess or refund emission fees up to two years after emission fees are received by the Department.
- (8) The Department shall not revise a PSEL solely due to an emission fee payment.
- (9) Owners or operators operating major sources pursuant to ~~OAR 340-028-2100 through 340-028-2320~~ division 218 shall submit the emission reporting information with the annual permit report.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; renumbered from OAR 340-028-2660.

340-028-2670220-0120

Actual Emissions

An owner or operator electing to pay on actual emissions shall obtain emission data and determine assessable emissions using one of the following methods:

- (1) Continuous monitoring systems used in accordance with OAR ~~340-028-2680~~220-0130;
- (2) Verified emission factors developed for that particular source in accordance with OAR ~~340-028-2720~~220-0170 for:
 - (a) Each assessable emission; or
 - (b) A combination of assessable emissions if there are multiple devices or activities venting to the atmosphere through one common emission point (e.g., stack). The owner or operator shall have a verified emission factor plan approved by the Department prior to conducting the source testing in accordance with OAR ~~340-028-2720~~220-0170.
- (3) Material balances determined in accordance with OAR ~~340-028-2690~~220-0140, OAR ~~340-028-2700~~220-0150, or OAR ~~340-028-2710~~220-0160; or
- (4) Verified emission factors for source categories developed in accordance with OAR ~~340-028-2720~~220-0170(11).
- (5) For specific assessable emissions of regulated air pollutants listed under OAR ~~340-032-0130~~244-0040 and not subject by permit to a Plant Site Emission Limit, where the Department determines there are not applicable methods to demonstrate actual emissions, the owner or operator shall use the best representative data to develop an emission factor, subject to Department approval.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-028-2670.

340-028-2680220-0130

Determining Emissions From Continuous Monitoring Systems

- (1) The owner or operator shall use data collected in accordance with Oregon Title V Operating Permit conditions, applicable rules in OAR Chapter 340, or the **Department's Continuous Monitoring Manual**.
- (2) If the owner or operator has continuous monitoring data that comprises less than ninety percent (90%) of the plant operating time, the actual emissions during the period when the continuous monitoring system was not operating shall be determined from 90 percentile continuous monitoring data.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 20-1993(T), f. & ef. 11-4-93; DEQ 13-1994, f. & ef. 5-19-94; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-2680.

340-028-2690220-0140

Determining Emissions Using Material Balance

The owner or operator may elect to use material balance to determine actual emissions:

- (1) If the amount of material added to a process less the amount consumed and/or recovered from a process can be documented in accordance with Department approved permit conditions and in accordance with OAR ~~340-028-2560~~ through ~~340-028-2740~~this division.
- (2) The owner or operator shall only apply material balance calculations to VOC or sulfur dioxide emissions in accordance with OAR ~~340-028-2700~~220-0150 and ~~340-028-2710~~220-0160 respectively.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; renumbered from OAR 340-028-2690.

340-028-2700220-0150

Determining VOC Emissions Using Material Balance

The owner or operator may determine the amount of VOC emissions for an assessable emission by using material balance. The owner or operator using material balance to calculate VOC emissions shall determine the amount of VOC added to the process, the amount of VOC consumed in the process and/or the amount of VOC recovered in the process by testing in accordance with **40 Code of Federal Regulations (CFR) Part 60 Appendix A EPA Method 18, 24, 25**, a material balance method, or an equivalent plant specific method specified in the federal operating permit using the following equation:

$$VOC_{tot} = VOC_{add} - VOC_{cons}$$

Where:

VOC_{tot} = Total VOC emissions, tons

VOC_{add} = VOC added to the process, tons

VOC_{cons} = VOC consumed and/or recovered from the process, tons

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats Implemented: ORS 468.020, ORS 468A.025, and ORS 468A.315.

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 2-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-028-2700.

~~340-028-2710~~220-0160

Determining Sulfur Dioxide Emissions Using Material Balance

(1) Sulfur dioxide emissions for major sources may be determined by measuring the sulfur content of fuels and assuming that all of the sulfur in the fuel is oxidized to sulfur dioxide.

(2) The owner or operator shall ensure that ASTM methods were used to measure the sulfur content in fuel for each quantity of fuel burned.

(3) The owner or operator shall determine sulfur dioxide emissions for each quantity of fuel burned, determining quantity by a method that is reliable for the source, by performing the following calculation:

$$SO_2 = \%S/100 \times F \times 2$$

Where:

SO_2 = Sulfur dioxide emissions for each quantity of fuel, tons

%S = Percent sulfur in the fuel being burned, % (w/w).

F = Amount of fuel burned, based on a quantity measurement, tons

2 = Pounds of sulfur dioxide per pound of sulfur

(4) For coal-fired steam generating units the following equation shall be used by owners or operators of major sources to account for sulfur retention:

$$SO_{2adj} = SO_2 \times 0.97$$

Where:

SO_{2adj} = Sulfur dioxide adjusted for sulfur retention (40 CFR Part 60, Appendix A, Method 19, Section 5.2)

SO_2 = Sulfur dioxide emissions from each quantity burned (OAR ~~340-028-2690~~220-0140(3))

(5) Total sulfur dioxide emissions for the year shall be the sum total of each quantity burned calculated in accordance with ~~OAR 340-028-2710~~section (3) of this rule and reported in units of tons/year.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020, ORS 468A.025, & ORS 468A.315.

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 2-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-028-2710.

~~340-028-2720~~220-0170

Verified Emission Factors Using Source Testing

(1) To verify emission factors used to determine assessable emissions the owner or operator shall either perform source testing in accordance with the Department's Source Sampling Manual or other methods approved by the Department for source tests. Source tests shall be conducted in accordance with testing procedures on file at the Department and the pretest plan submitted at least 15 days in advance and approved by the Department. All test data and results shall be submitted for review to the Department within 30 days after testing.

[NOTE: It is recommended that the owner or operator notify the Department and obtain pre-approval of the Emission Factor source testing program prior to or as part of the submittal of the first source test notification.]

(2) The owner or operator shall conduct or have conducted at least three compliance source tests, each consisting of at least three individual test runs for a total of at least nine test runs.

(3) The owner or operator shall monitor and record or have monitored and recorded applicable process and control device operating data.

(4) The owner or operator shall perform or have performed a source test either:

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

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

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

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

(6) The owner or operator shall determine or have determined an emission factor for each source test by dividing each test run emissions, in pounds per hour, by the applicable process rate during the source test run. At least nine emission factors shall be plotted against the respective process rates and a regression analysis performed to determine the best fit equation and the correlation coefficient (R^2). If the correlation coefficient is less than 0.50, which would indicate that there is a relatively weak relationship between emissions and process rates, the arithmetic average and standard deviation of at least nine emission factors shall be determined.

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

(a) If the correlation coefficient (R^2) of the regression analysis is greater than 0.50, the EEAF shall be $1+(1-R^2)$.

(b) If the correlation coefficient (R^2) is less than 0.50, the EEAF shall be:

$$EEAF = 1 + SD/EF_{avg}$$

Where:

SD = Standard Deviation

EF_{avg} = Average of the Emission Factors

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

(a) If the regression analysis correlation coefficient is less than 0.50, the actual emissions shall be the average emission factor determined from at least nine test runs multiplied by the EEAF multiplied by the total production for the entire year; or

$$AE = EF_{avg} \times EEAF \times P$$

Where:

AE = Actual Emissions

EF_{avg} = Average of the Emission Factors

EEAF = Estimated Emissions Adjustment Factor

P = Total production for the year

(b) If the regression analysis correlation coefficient is greater than 0.50 the following calculations shall be performed:

(A) Determine the average emission factor (EF) for each production rate category (maximum = EF_{max} , normal = EF_{norm} , and minimum = EF_{min});

(B) Determine the total annual production and operating hours, production time (PT_{tot}), for the calendar year;

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

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

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

(F) Actual emissions equals $EAF \times ((PT_{max}/PT_{tot}) \times EF_{max} + (PT_{norm}/PT_{tot}) \times EF_{norm} + (PT_{min}/PT_{tot}) \times EF_{min})$

(9) The owner or operator shall determine emissions during startup and shutdown, and for emissions greater than normal, during conditions that are not accounted for in the procedure(s) otherwise used to document actual emissions. The owner or operator shall apply 340-028-2720-0170(9)(a) or 340-028-2720-0170(9)(b), (c) and (d) in developing emission factors. The owner or operator shall apply the emission factor obtained to the total time the device or activity operated in these conditions.

(a) All emissions during startup and shutdown, and emissions greater than normal shall be assumed equivalent to operation without an air pollution control device, unless accurately demonstrated by the owner or operator and approved by the Department in accordance with OAR 340-028-2720-0170(9)(b), (9)(c), (9)(d), and (9)(e). The emission factor plus the EAF shall be adjusted by the air pollution control device collection efficiency as follows:

Actual emission factor = $(EF \times EAF)/(1 - PCDE)$

Where:

EF = Emission Factor

EAF = Emission Estimate Adjustment Factor

PCDE = Pollution Control Device Collection Efficiency Unless otherwise approved by the Department, the pollution control device collection efficiencies used in this calculation shall be:

Particulate Matter:

ESP or baghouse — 0.90

High energy wet scrubber — 0.80

Low energy wet scrubber — 0.70

Cyclonic separator — 0.50

Acid gases:

Wet or dry scrubber — 0.90

VOCs:

Incinerator — 0.98

Carbon absorber — 0.95

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

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

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

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

(B) Determine emissions in accordance with Section (a) of this rule.

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

(10) A verified emission factor developed pursuant to ~~OAR 340-028-2560 through 340-028-2740~~ this division and approved by the Department can not be used if a process change occurs that would affect the accuracy of the verified emission factor.

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

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

(b) Verified emission factors from sources within a source category shall be developed in accordance with ~~OAR 340-028-2720~~ this rule;

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

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

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-028-2720

340-028-2730220-0180

Late and Underpayment of Fees

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

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

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

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

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; renumbered from OAR 340-028-2730.

340-028-2740220-0190

Failure to Pay Fees

Any owner or operator that fails to pay fees imposed by the Department under these rules shall pay a penalty of 50 percent of the fee amount, plus interest on the fee amount computed in accordance with **Section 6621(a)(2)** of the **Internal Revenue Code of 1986**.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; renumbered from OAR 340-028-2740.

DIVISION 222

STATIONARY SOURCE PLANT SITE EMISSION LIMITS

Plant Site Emission Limits

340-028-1000222-0010

Policy

The Commission recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of permit holders as contained in ~~OAR 340-028-1010 through 340-028-1060~~ this division. However, by the adoption of these rules, the Commission does not intend to: Limit the use of existing production capacity of any air quality permittee (except for synthetic minor source permittees); cause any undue hardship or expense to any permittee due to the utilization of existing unused productive capacity; or create inequity within any class of permittees subject to specific industrial standards which are based on emissions related to production. PSELs can be established at levels higher than baseline provided a demonstrated need exists to emit at a higher level and PSD increments and air quality standards would not be violated and reasonable further progress in implementing control strategies would not be impeded.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047200-0040~~. Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0300; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-1000.

340-028-1010222-0020

Requirement for Plant Site Emission Limits Applicability

(1) PSELs shall be incorporated in all ACDPs and Oregon Title V Operating Permits, except as provided in Section (3) of this rule, as a means of managing airshed capacity. Except as provided in ~~OAR 340-028-1050222-0060~~ or ~~340-028-1060222-0070~~, all sources subject to regular permit requirements shall be subject to PSELs for all regulated pollutants. PSELs will be incorporated in permits when permits are renewed, modified, or newly issued.

(2) The emissions limits established by PSELs shall provide the basis for:

(a) Assuring reasonable further progress toward attaining compliance with ambient air standards;

(b) Assuring that compliance with ambient air standards and Prevention of Significant Deterioration increments are being maintained;

(c) Administering offset, banking and bubble programs;

(d) Establishing the baseline for tracking consumption of Prevention of Significant Deterioration Increments.

(3) PSELs shall not be required for:

(a) Insignificant discharge permits issued under ~~OAR 340-028-1720216-0020(7)~~;

(b) Minimal source permits issued under ~~OAR 340-028-1720216-0020(8)~~; or

(c) General permits issued under ~~OAR 340-028-1725216-0060~~ for sources that:

(A) Qualify for an insignificant discharge permit or minimal source permit; or

(B) Are not listed in ~~OAR 340-028-1750216-0090~~ Table 4-1 but elect to obtain a synthetic minor permit.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020 & ORS 468A.040

Stats Implemented: ORS 468.020, ORS 468.065 & ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0301; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1998, f. & cert. ef. 9-14-98; renumbered from OAR 340-028-1010.

340-222-0030

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

[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

Stats. Implemented: ORS 468A.025

Hist.:

~~340-028-1020-222-0040~~

Criteria for Establishing Plant Site Emission Limits

(1) For existing sources, PSELs shall be based on the baseline emission rate for a particular pollutant at a source and shall be adjusted upward or downward pursuant to Department Rules:

(a) If an applicant requests that the PSEL be established at a rate higher than the baseline emission rate, the applicant shall:

(A) Demonstrate that the requested increase is less than the significant emission rate increase; or

(B) Provide an assessment of the air quality impact pursuant to procedures specified in OAR ~~340-028-1930-224-0050~~ to ~~340-028-1940-224-0070~~. A demonstration that no air quality standard or PSD increment will be violated in an attainment area or that a growth increment or offset is available in a nonattainment area shall be sufficient to allow an increase in the PSEL to an amount not greater than the plant's demonstrated need to emit as long as no physical modification of an emissions unit is involved.

(b) Increases above baseline emission rates shall be subject to public notice and opportunity for public hearing pursuant to applicable permit requirements.

(2) PSELs shall be established on at least an annual emission basis and a short term period emission basis that is compatible with source operation and air quality standards.

(3) Mass emission limits may be established separately within a particular source for process emissions, combustion emissions, and fugitive emissions.

(4) Documentation of PSEL calculations shall be available to the permittee.

(5) For new sources, PSELs shall be based on application of applicable control equipment requirements and projected operating conditions.

(6) PSELs shall not be established which allow emissions in excess of those allowed by any applicable federal or state regulation or by any specific permit condition unless specific provisions of OAR ~~340-028-1030-226-0400~~ are met.

(7) PSELs may be changed pursuant to Department rules when:

(a) Errors are found or better data is available for calculating PSELs;

(b) More stringent control is required by a rule adopted by the Commission;

(c) An application is made for a permit modification pursuant to OAR ~~340-028-1700 through 340-028-1790~~ division 216, ACDPs, OAR ~~340-028-1900 through 340-028-2000~~ division 224, New Source Review, and approval can be granted based on growth increments, offsets, or available Prevention of Significant Deterioration increments, or OAR ~~340-028-2100 through 340-028-2320~~ division 218, Rules Applicable to Sources Required to Have Oregon Title V Operating Permits; or

(d) The Department finds it necessary to initiate modifications of a permit pursuant to OAR 340-014-0040, Modification of a Permit or OAR ~~340-028-2280-218-0200~~, Reopenings.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047-200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0310; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-1020.

~~340-028-1040-222-0050~~

Temporary PSD Increment Allocation

(1) PSELs may include a temporary or time-limited allocation against an otherwise unused PSD increment in order to accommodate voluntary fuel switching or other cost or energy saving proposals provided it is demonstrated to the Department that:

(a) No ambient air quality standard is exceeded;

(b) No applicable PSD increment is exceeded;

(c) No nuisance condition is created;

(d) The applicant's proposed and approved objective continues to be realized.

(2) When such demonstration is being made for changes to the PSEL, it shall be presumed that ambient air quality monitoring shall not be required of the applicant for changes in hours of operation, changes in production levels, voluntary fuel switching or for cogeneration projects unless, in the opinion of the Department, extraordinary circumstances exist.

(3) Such temporary allocation of a PSD increment shall be set forth in a specific permit condition issued pursuant to the Department's Notice and Permit Issuance or Modification Procedures.

(4) Such temporary allocations shall be specifically time limited and may be recalled under specified notice conditions.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0320; renumbered from OAR 340-028-1040.

340-028-1050222-0060

Plant Site Emission Limits for Sources of Hazardous Air Pollutants

(1) For purposes of establishing PSELs, hazardous air pollutants listed under OAR 340-032-0130244-0040 or OAR 340-032-5400244-0230 shall not be considered regulated pollutants under OAR 340-028-1010222-0020 until such time as the Commission determines otherwise.

(2) The Department may establish PSELs for hazardous air pollutants for the following causes:

(a) An owner or operator elects to establish a PSEL for any hazardous air pollutant emitted for purposes of determining emission fees as prescribed in OAR 340-028-2400 through 340-028-2740 division 220; or

(b) The source is subject to a hazardous air pollutant emission standard, limitation, or control requirement other than Plant Site Emission Limits.

(3) Procedures for establishing and modifying PSELs for hazardous air pollutant emissions shall be consistent with OAR 340-028-1020222-0040 except for the following:

(a) A baseline emission rate shall not apply; and

(b) The provisions of OAR 340-028-1030226-0400 shall not apply.

(4) PSELs established for hazardous air pollutants shall not be used for any provisions other than those prescribed in section (2) of this rule.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-028-1050.

340-028-1060222-0070

Plant Site Emission Limits for Insignificant Activities

(1) For purposes of establishing PSELs, emissions from categorically insignificant activities listed in OAR 340-028-0110200-0020 shall not be considered regulated air pollutants under OAR 340-028-1010222-0020 until such time as the Commission determines otherwise, except as provided in section (3) of this rule.

(2) For purposes of establishing PSELs, emissions from aggregate insignificant emissions listed in OAR 340-028-0110200-0020 shall be considered regulated air pollutants under OAR 340-028-1010222-0020.

(3) For purposes of determining New Source Review or Prevention of Significant Deterioration applicability, OAR 340-028-1900 through 340-028-2000 division 224, emissions from insignificant activities shall be considered.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats Implemented: ORS 468.020, ORS 468A.025, ORS 468A.040, & ORS 468A.045.

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 2-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-028-1060.

DIVISION 224

MAJOR NEW SOURCE REVIEW

New Source Review

340-028-1900224-0010

Applicability

(1) No owner or operator may begin construction of a major source or a major modification of an air contaminant source without having received an ACDP from the Department and having satisfied ~~OAR 340-028-1900 through 340-028-2000~~ this division of these rules.

(2) Owners or operators of proposed non-major sources or non-major modifications are not subject to these New Source Review rules. Such owners or operators are subject to other Department rules including Highest and Best Practicable Treatment and Control Required (OAR ~~340-028-0600226-0100~~ 340-028-0640226-0140), Notice of Construction and Approval of Plans (OAR ~~340-028-0800210-0200~~ 340-028-0820210-0220), ACDPs (OAR ~~340-028-1700 through 340-028-1790~~ division 216), Emission Standards for Hazardous Air Contaminants (OAR Chapter 340, Division ~~32244~~), and Standards of Performance for New Stationary Sources (OAR ~~340-025-0505 through 340-025-0545~~ division 238).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-047200-0040~~.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0220;

DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-028-1900.

340-224-0020

Definitions

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

[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

Stats. Implemented: ORS 468A.025

Hist.:

340-028-1910224-0030

Procedural Requirements

(1) Information Required. The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or make any determination required under these rules. Such information must include, but not be limited to:

(a) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(b) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, and yearly rates, showing the calculation procedure;

(c) A detailed schedule for construction of the source or modification;

(d) A detailed description of the air pollution control equipment and emission reduction processes which are planned for the source or modification, and any other information necessary to determine that BACT or LAER technology, whichever is applicable, would be applied;

(e) To the extent required by these rules, an analysis of the air quality and/or visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

(f) To the extent required by these rules, an analysis of the air quality and/or visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth which has occurred since January 1, 1978, in the area the source or modification would affect.

(g) The owner or operator of a source for which an Oregon Title V Operating Permit has been issued who applies for a permit to construct or modify under ~~OAR 340-028-1900 through 340-028-2000~~ this division may request that an enhanced New Source Review process be used, including the external review procedures required under OAR 340-~~028-2290~~218-0210 and OAR 340-~~028-2310~~218-0230 instead of the notice procedures under this rule to allow for subsequent incorporation of the construction permit as an administrative amendment. All information required under OAR 340-~~028-2120~~218-0040 shall be submitted as part of any such request.

(2) Other Obligations:

(a) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to ~~OAR 340-028-1900 through 340-028-2000~~ this division or with the terms of any approval to construct, or any owner or operator of a source or modification subject to OAR 340-~~028-1900~~224-0010 who commences construction without applying for and receiving an ACDP, is subject to appropriate enforcement action;

(b) Approval to construct becomes invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the scheduled time. The Department may extend the 18-month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase shall commence construction within 18 months of the projected and approved commencement date;

(c) Approval to construct does not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, state or federal law;

(d) Approval to construct a source under an ACDP issued under paragraph (3)(b)(I) of this rule shall authorize construction and operation of the source, except as prohibited in subsection (e) of this rule, until the later of:

(A) One year from the date of initial startup of operation of the major source or major modification; or

(B) If a timely and complete application for an Oregon Title V Operating Permit is submitted, the date of final action by the Department on the Oregon Title V Operating Permit application.

(e) Where an existing Oregon Title V Operating Permit would prohibit such construction or change in operation, the owner or operator must obtain a permit revision before commencing operation.

(3) Public Participation:

(a) Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted. The date of the receipt of a complete application shall be, for the purpose of this section, the date on which the Department received all required information;

(b) Notwithstanding the requirements of OAR 340-014-0020 or OAR 340-~~028-2120~~218-0040, but as expeditiously as possible and at least within six months after receipt of a complete application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner:

(A) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved;

(B) Make available for a 30-day period in at least one location a copy of the permit application, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination;

(C) Notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed source or modification would be constructed, of the application, the preliminary determination, the extent of increment consumption that is expected from the source or modification, the opportunity for a public hearing and for written public comment and, if applicable, that an enhanced New Source Review process, including the external review procedures required under OAR 340-~~028-2290~~218-0210 and OAR 340-~~028-2310~~218-0230, is being used to allow for subsequent incorporation of the operating approval into an Oregon Title V Operating Permit as an administrative amendment;

(D) Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification, and the EPA;

(E) Upon determination that significant interest exists, or upon written requests for a hearing from ten persons or from an organization or organizations representing at least ten persons, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the

source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR Chapter 345, Division 15;

(F) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification;

(G) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section;

(H) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.

(I) After the effective date of Oregon's program to implement the Oregon Title V Operating Permit program, the owner or operator of a source subject to OAR ~~340-028-2110~~218-0020 who has received a permit to construct or modify ~~under OAR 340-028-1900 through 340-028-2000~~this division, shall submit an application for an Oregon Title V Operating Permit within one year of initial startup of the construction or modification, unless the Oregon Title V Operating Permit prohibits such construction or change in operation. The Oregon Title V Operating Permit application shall include the following information:

- (i) Information required by OAR ~~340-028-2120~~218-0040, if not previously included in the ACDP application;
- (ii) A copy of the existing ACDP;
- (iii) Information on any changes in the construction or operation from the existing ACDP, if applicable; and
- (iv) Any monitoring or source test data obtained during the first year of operation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-20-0047~~200-0040.]
Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 18-1984, f. & ef. 10-16-84; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0230; DEQ 19-1993, 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; renumbered from OAR 340-028-1910.

~~340-028-1920~~224-0040

Review of New Sources and Modifications for Compliance With Regulations

The owner or operator of a proposed major source or major modification shall demonstrate the ability of the proposed source or modification to comply with all applicable requirements of the Department, including NSPS (OAR ~~340-025-0505~~through 340-025-0530 Division 238) and NESHAP (OAR Chapter 340, Division ~~322~~244) and shall obtain an ACDP pursuant to OAR ~~340-028-1700 through 340-028-1790~~division 216.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0235; DEQ 26-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-028-1920.

~~340-028-1930~~224-0050

Requirements for Sources in Nonattainment Areas

Proposed major sources and major modifications that would emit a nonattainment pollutant within a designated nonattainment area, including VOC or NO_x in a designated Ozone Nonattainment Area, or a specified pollutant in any area listed in section (8) of this rule must meet the requirements listed below:

(1) LAER. The owner or operator of the proposed major source or major modification shall demonstrate that the source or modification will comply with the LAER for each nonattainment pollutant emitted at or above the significant emission rate. For a major modification, the requirement for LAER applies only to each new or modified emission unit that increases emissions. For phased construction projects, the determination of LAER must be reviewed at the latest reasonable time before commencement of construction of each independent phase.

(2) Source Compliance. The owner or operator of the proposed major source or major modification shall demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with

such person) in the state are in compliance or on a schedule for compliance with all applicable emission limitations and standards under the Act.

(3) Offsets. The owner or operator of the proposed major source or major modification shall provide offsets as specified in OAR ~~340-028-1960~~ division 268 and ~~340-028-1970224-0090~~.

(4) Net Air Quality Benefit. If emission reductions or offsets are required, the applicant shall demonstrate that a net air quality benefit will be achieved in the affected area as described in OAR ~~340-028-1970224-0090~~ and that the reductions are consistent with reasonable further progress toward attainment of the air quality standards. Applicants in an ozone nonattainment area shall demonstrate that the proposed VOC or NO_x offsets will result in a 10% net reduction in emissions, as required by OAR ~~340-028-1970224-0090~~(3)(c).

(5) Alternative Analysis:

(a) The owner or operator of the proposed major source or major modification shall conduct an alternative analysis;

(b) This analysis must include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(6) Proposed new major sources and major modifications in the Medford-Ashland Air Quality Maintenance Area (AQMA) with PM₁₀ increases in excess of the significant emission rate must meet the requirements of this rule, OAR ~~340-028-1940224-0070~~ and OAR ~~340-030-0111240-0260~~.

[NOTE: this rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047200-0040~~.] Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0240; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; renumbered from OAR 340-128-1930.

~~340-028-1935224-0060~~

Requirements for Sources in Maintenance Areas

Proposed major sources and major modifications that would emit a maintenance pollutant within a designated ozone or carbon monoxide maintenance area, including VOC or NO_x in a designated ozone maintenance area, must meet the requirements listed below:

(1) BACT. Except as provided in Section (7) of this rule, the owner or operator of the proposed major source or major modification shall apply BACT for each maintenance pollutant emitted at a significant emission rate. For a major modification, the requirement for BACT applies only to each new or modified emission unit that increases emissions. For phased construction projects, the determination of BACT must be reviewed at the latest reasonable time before commencement of construction of each independent phase.

(2) Source Compliance. The owner or operator of the proposed major source or major modification shall demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the state are in compliance or on a schedule for compliance with all applicable emission limitations and standards under the Act.

(3) Air Quality Protection:

(a) Offsets or Growth Allowance. Except as provided in Subsection (b) of this Section, the owner or operator of the proposed major source or major modification shall provide offsets as specified in OAR ~~340-028-1960~~ division 268, ~~340-240-0260~~, and ~~340-028-1970224-0090~~. Except as provided in Section (7) of this rule, the requirements of this Section may be met in whole or in part in an ozone or carbon monoxide maintenance area with an allocation by the Department from a growth allowance, if available, in accordance with Section (8) of this rule and the applicable maintenance plan in the SIP adopted by the Commission and approved by EPA. An allocation from a growth allowance used to meet the requirements of this Section is not subject to OAR ~~340-028-1960~~ division 268 and ~~340-028-1970224-0090~~.

(b) Modeling. A proposed major source or major modification which would emit carbon monoxide emissions within a carbon monoxide maintenance area is exempt from Subsection (a) of this Section if it can demonstrate that the source or modification will not cause or contribute to an air quality impact equal to or greater than 0.5 mg/m³ (8 hour average) and 2 g/m³ (1-hour average).

(4) Net Air Quality Benefit. If emission reductions or offsets are required, the applicant shall demonstrate that a net air quality benefit will be achieved in the affected area as described in OAR ~~340-028-1970224-0090~~. Applicants in an ozone

maintenance area shall demonstrate that the proposed VOC or NO_x offsets will result in a 10% net reduction in emissions, as required by OAR 340-028-1970224-0090(3)(c) .

(5) Alternative Analysis:

(a) The owner or operator of the proposed major source or major modification shall conduct an alternative analysis;

(b) This analysis must include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(6) Additional Requirements For Listed Sources. In addition to other requirements of this rule, the following sources must comply with OAR 340-028-1940224-0070 for emissions of the main-tenance pollutant:

(a) Sources with potential emissions of any regulated air pollutant equal to or greater than 250 tons/year; and

(b) Sources with potential emissions of any regulated air pollutant equal to or greater than 100 tons/year in the following source categories:

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

(B) Coal cleaning plants with thermal dryers;

(C) Kraft pulp mills;

(D) Portland cement plants;

(E) Primary Zinc Smelters;

(F) Iron and Steel Mill Plants;

(G) Primary aluminum ore reduction plants;

(H) Primary copper smelters;

(I) Municipal Incinerators capable of charging more than 250 tons of refuse per day;

(J) Hydrofluoric acid plants;

(K) Sulfuric acid plants,

(L) Nitric acid plants;

(M) Petroleum Refineries;

(N) Lime plants;

(O) Phosphate rock processing plants;

(P) Coke oven batteries;

(Q) Sulfur recovery plants;

(R) Carbon black plants, furnace process;

(S) Primary lead smelters;

(T) Fuel conversion plants;

(U) Sintering plants;

(V) Secondary metal production plants;

(W) Chemical process plants;

(X) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;

(Y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(Z) Taconite ore processing plants;

(AA) Glass fiber processing plants;

(BB) Charcoal production plants.

(7) Contingency plan requirements. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, this Section applies in addition to other requirements of this rule until the Commission adopts a revised maintenance plan and EPA approves it as a revision to the SIP.

(a) The requirement for BACT in Section (1) of this rule is replaced by a requirement for LAER.

(b) An allocation from a growth allowance may not be used to meet the requirement for offsets in Section (3) of this rule.

(c) The exemption provided in Section (3) (b) of this rule for major sources or major modifications within a carbon monoxide maintenance area no longer applies.

(8) Growth Allowance Allocation.

(a) Medford-Ashland Ozone. The growth allowance in the Medford Maintenance Area for Ozone is allocated on a first-come-first-served basis depending on the date of submittal of a complete permit application. No single source shall receive an allocation of more than 50% of any remaining growth allowance. The allocation of emission increases from the growth allowance is calculated based on the ozone season (May 1 to September 30 of each year).

(b) Portland Ozone and Carbon Monoxide. Procedures for allocating the growth allowances for the Oregon portion of the Portland-Vancouver Interstate Maintenance Area for Ozone and the Portland Maintenance Area for Carbon Monoxide are contained in OAR ~~340-030-0730242-0430~~ and ~~340-030-0740242-0440~~.

(9) Pending Redesignation Requests. This rule does not apply to a proposed major source or major modification for which a complete application to construct was submitted to the Department before the maintenance area was redesignated from nonattainment to attainment by EPA. Such a source is subject to OAR ~~340-028-1930224-0050~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047200-0040~~.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Department.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; renumbered from OAR 340-028-1935.

~~340-028-1940224-0070~~

Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas

Except as provided in sections (9) and (10) of this rule, proposed new major sources or major modifications locating in areas designated attainment or unclassifiable must meet the following requirements:

(1) BACT. The owner or operator of the proposed major source or major modification shall apply BACT for each pollutant emitted at a significant emission rate. For a major modification, the requirement for BACT applies only to each new or modified emission unit that increases emissions. For phased construction projects, the determination of BACT must be reviewed at the latest reasonable time before commencement of construction of each independent phase.

(2) Air Quality Analysis:

(a) The owner or operator of the proposed major source or major modification shall demonstrate that the emissions of any pollutant at or above a significant emission rate would not cause or contribute to:

(A) An impact greater than significant air quality impact levels at any locality that does not or would not meet any state or national ambient air quality standard;

(B) An impact in any location in excess of any applicable increment established by the Prevention of Significant Deterioration (PSD) requirements, OAR ~~340-031-0110202-0210~~; or

(C) An impact greater than significant air quality impact levels on a designated nonattainment area or maintenance area. New sources or modifications of sources which would emit VOC or NO_x which may impact the Salem SKATS area are exempt from this demonstration with respect to ozone formation.

(b) The demonstration under subsection (a) of this section shall include the potential to emit from the proposed major source or major modification, in conjunction with all other applicable emission increases and creditable decreases, and includes secondary emissions.

(c) The owner or operator of a source or modification with the potential to emit at rates greater than the significant emission rate but less than 100 tons/year, and which is more than 50 kilometers from a nonattainment or maintenance area, is not required to assess the impact of the source or modification on the nonattainment area or maintenance area.

(d) If the owner or operator of a proposed major source or major modification provides emission offsets that result in a net air quality benefit pursuant to OAR ~~340-028-1970224-0090~~, the Department may consider the requirements of this section to have been met.

(3) Exemption for Sources Not Significantly Impacting or Contributing to Levels in Excess of Air Quality Standards or PSD Increment Levels. Except as provided in section (8), a proposed major source or major modification is exempt from sections (1), (5) and (6) of this rule if subsections (a) and (b) of this section are satisfied:

(a) The proposed major source or major modification does not:

(A) cause or contribute a significant air quality impact to air quality levels in excess of any state or national ambient air quality standard;

(B) cause or contribute to air quality levels in excess of any applicable increment established by the PSD requirements, OAR ~~340-031-0110202-0210~~; or

(C) impact a designated nonattainment or maintenance area; and

(b) The potential emissions of each regulated air pollutant from the source are less than 100 tons/year for sources in the following categories or less than 250 tons/year for sources not in the following source categories:

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

(B) Coal cleaning plants with thermal dryers;

- (C) Kraft pulp mills;
- (D) Portland cement plants;
- (E) Primary Zinc Smelters;
- (F) Iron and Steel Mill Plants;
- (G) Primary aluminum ore reduction plants;
- (H) Primary copper smelters;
- (I) Municipal Incinerators capable of charging more than 250 tons of refuse per day;
- (J) Hydrofluoric acid plants;
- (K) Sulfuric acid plants,
- (L) Nitric acid plants;
- (M) Petroleum Refineries;
- (N) Lime plants;
- (O) Phosphate rock processing plants;
- (P) Coke oven batteries;
- (Q) Sulfur recovery plants;
- (R) Carbon black plants, furnace process;
- (S) Primary lead smelters;
- (T) Fuel conversion plants;
- (U) Sintering plants;
- (V) Secondary metal production plants;
- (W) Chemical process plants;
- (X) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;
- (Y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (Z) Taconite ore processing plants;
- (AA) Glass fiber processing plants;
- (BB) Charcoal production plants.

[**Note:** Owners or operators of proposed sources which are exempted by this provision may be subject to other applicable requirements including, but not limited to, OAR ~~340-028-0800~~210-0200 through ~~340-028-0820~~210-0220, Notice of Construction and Approval of Plans, and OAR ~~340-028-1700~~ through ~~340-028-1790~~ division 216, ACDP.]

(4) Air Quality Models. All estimates of ambient concentrations required under this rule shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR Part 51, Appendix W, "Guidelines on Air Quality Models (Revised) " (July 1, 1996) . Where an air quality impact model specified in 40 CFR Part 51, Appendix W is inappropriate, the model may be modified or another model substituted. Such a change shall be subject to notice and opportunity for public comment and shall receive approval of the Department and the EPA. Methods like those outlined in the "Interim Procedures for Evaluating Air Quality Models (Revised) " (U.S. Environmental Protection Agency, 1984) should be used to determine the comparability of models.

(5) Air Quality Monitoring:

(a) (A) The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Department, an analysis of ambient air quality in the area impacted by the proposed project. This analysis shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. As necessary to establish ambient air quality, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment. Pursuant to the requirements of these rules, the owner or operator of the source shall submit for the approval of the Department, a preconstruction air quality monitoring plan.

(B) Air quality monitoring which is conducted pursuant to this requirement shall be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" (July 1, 1996) and with other methods on file with the Department.

(C) The Department may exempt a proposed major source or major modification from preconstruction monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less

than the amounts listed below or that the concentrations of the pollutant in the area that the source or modification would impact are less than the amount specified in Table 5 following significant monitoring concentrations:

Table 5

~~OAR 340-028-1940~~

~~Significant Monitoring Concentrations~~

- (i) Carbon monoxide - 575 ug/m³, 8 hour average;
 - (ii) Nitrogen dioxide - 14 ug/m³, annual average;
 - (iii) Suspended Particulate Matter:
 - (I) TSP - 10 ug/m³, 24 hour average;
 - (II) PM₁₀ - 10 ug/m³, 24 hour average;
 - (iv) Sulfur dioxide - 13 ug/m³, 24 hour average;
 - (v) Ozone - Any net increase of 100 tons/year or more of VOCs from a source or modification subject to PSD requires an ambient impact analysis, including the gathering of ambient air quality data;
 - (vi) Lead - 0.1 ug/m³, 24 hour average;
 - (vii) Mercury - 0.25 ug/m³, 24 hour average;
 - (viii) Beryllium - 0.0005 ug/m³, 24 hour average;
 - (ix) Fluorides - 0.25 ug/m³, 24 hour average;
 - (x) Vinyl chloride - 15 ug/m³, 24 hour average;
 - (xi) Total reduced sulfur - 10 ug/m³, 1 hour average;
 - (xii) Hydrogen sulfide - 0.04 ug/m³, 1 hour average;
 - (xiii) Reduced sulfur compounds - 10 ug/m³, 1 hour average.
- (D) When PM₁₀ preconstruction monitoring is required by this section, at least four months of data shall be collected including the season(s) which the Department judges to have the highest PM₁₀ levels. PM₁₀ shall be measured in accordance with 40 CFR part 50, Appendix J (July 1, 1996).
- (b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such ambient air quality monitoring as the Department may require as a permit condition to establish the effect which emissions of a pollutant, other than nonmethane hydrocarbons, may have, or is having, on air quality in any area which such emissions would affect.
- (6) Additional Impact Analysis:
- (a) The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to soils and vegetation that would occur as a result of the source or modification, and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value;
- (b) The owner or operator shall provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the major source or modification.
- (7) Sources Impacting Class I Areas:
- (a) Where a proposed major source or major modification impacts or may impact a Class I area, the Department shall provide written notice to EPA and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application, at least 30 days prior to Department Public Hearings and subsequently, of any preliminary and final actions taken with regard to such application;
- (b) The Federal Land Manager shall be provided an opportunity in accordance with ~~OAR 340-028-1910~~224-0030(3) to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values, including visibility, of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration, the permit shall not be issued.
- (8) Additional Requirements In Special Areas:
- (a) In addition to the other requirements of this rule, proposed major sources and major modifications that would emit M₁₀ in excess of the significant emission rate within the areas identified below shall meet the requirements in subsections (c) through (g) of this section.
- (A) The Grants Pass UGB as defined in ~~OAR 340-031-500~~204-0010.

(B) The Klamath Falls UGB as defined in OAR 340-~~031-500~~204-0010.

(C) The La Grande UGB as defined in OAR 340-~~031-500~~204-0010.

(D) The Lakeview UGB as defined in OAR 340-~~031-500~~204-0010.

(b) In addition to the other requirements of this rule, proposed major sources and major modifications that would emit VOC or NO_x in excess of the significant emission rate in the Salem SKATS area, as defined in OAR 340-~~031-500~~204-0010, shall meet the requirements in subsections (c), (d), and (g) of this section. With respect to ozone formation in the Salem SKATS, these sources are exempt from section (2) of this rule.

(c) BACT. The owner or operator of the proposed major source or major modification shall apply BACT in accordance with section (1) of this rule. The exemption to BACT provided under section (3) of this rule does not apply to areas listed in subsections (a) and (b).

(d) Source Compliance. The owner or operator of the proposed major source or major modification shall demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the state are in compliance or on a schedule for compliance with all applicable emission limitations and standards under the Act.

(e) Air Quality Analysis. In addition to the requirements of subsection (2)(a), the owner or operator of the proposed major source or major modification that would emit PM₁₀ in excess of the significant emission rate shall demonstrate that the emissions would not cause or contribute to an ambient air impact in areas listed in subsection (a) of this section that is equal to or greater than 4 micrograms per cubic meter of PM₁₀ as an annual arithmetic mean, or 8 micrograms per cubic meter of PM₁₀ as a 24-hour average concentration for any calendar day.

(f) If the owner or operator of a proposed major source or major modification provides emission offsets that result in a net air quality benefit pursuant to OAR 340-~~028-1970~~224-0090, the Department may consider the requirements of section (2) and subsection (e) of this section to have been met.

(g) This rule does not apply to a proposed major source or major modification for which a complete application to construct was submitted to the Department before the PM₁₀ or ozone nonattainment area designation for the areas in this section was revoked by EPA. Such a source is subject to OAR 340-~~028-1930~~224-0050.

9) Except as provided in OAR 340-~~028-1935~~224-0060(6), this rule does not apply to a maintenance pollutant in a designated ozone or carbon monoxide maintenance area with respect to the maintenance pollutant.

(10) Requirements for PM₁₀ sources in the Medford-Ashland Air Quality Maintenance Area (AQMA) are as follows:

(a) Except as provided in subsection (b) of this section, this rule does not apply to proposed major sources or major modifications that would emit PM₁₀ in excess of the significant emission rate. These sources are subject to the requirements of OAR 340-~~028-1930~~224-0050, and OAR 340-~~030-0111~~240-0260.

(b) Proposed major sources or major modifications that would emit PM₁₀ in excess of the significant emission rate must comply with sections (2) through (7) of this rule, OAR 340-~~028-1930~~224-0050, and OAR 340-~~030-0111~~240-0260, if the source exceeds the size criteria specified in subsection (3)(b) of this rule.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-~~020-0047~~200-0040.
Stat. Auth.: ORS 468.020

Stat. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 14-1985, f. & ef. 10-16-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 27-1992, f. & cert. ef. 11-12-92; Section (8) renumbered from 340-020-0241; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0245; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; renumbered from OAR 340-028-1940.

340-028-1950224-0080

Exemptions

(1) Temporary emission sources which would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification shall comply with OAR 340-~~028-1930~~224-0050(1) and (2) or OAR 340-~~028-1940~~224-0070(1), whichever is applicable, but are exempt from the remaining requirements of OAR 340-~~028-1930~~224-0050 and OAR 340-~~028-1940~~224-0070 provided that the source or modification would not impact a Class I area or an area where an applicable requirement is known to be violated.

(2) Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed in a permit and would not involve a physical change in the source may be exempted from the requirement of OAR 340-~~028-1940~~224-0070(1) provided that the increases cause no exceedances of an increment or standard and that the net

impact on a nonattainment area is less than the significant air quality impact levels. This exemption shall not be allowed for new sources or modifications that received permits to construct after January 1, 1978.

(3) Also refer to OAR ~~340-028-1940~~224-0070(3) for exemptions pertaining to sources smaller than the Federal Size-Cutoff Criteria.

(4) Emissions of hazardous air pollutants that are subject to a MACT standard under OAR ~~340-032-0500~~244-0200 or ~~OAR 340-032-4500~~through 340-244-0220 shall not be subject to OAR ~~340-028-1940~~224-0070.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-047.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0250; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-1950.

~~340-028-1970~~224-0090

Requirements for Net Air Quality Benefit

Demonstrations of net air quality benefit for offsets shall include the following:

(1) A demonstration shall be provided showing that the proposed offsets will improve air quality in the same geographical area affected by the new source or modification. This demonstration may require that air quality modeling be conducted according to the procedures specified in **40 CFR Part 51, Appendix W, "Guideline on Air Quality Models (Revised) " (July 1, 1996).**

(2) Offsets for VOCs or nitrogen oxides shall be within the same nonattainment area or maintenance area as the proposed source. Offsets for particulate matter, PM₁₀, sulfur dioxide, carbon monoxide, nitrogen dioxide, lead, and other pollutants shall be within the area of significant air quality impact.

(3) Except as provided in Section (6) of this rule, new major sources or major modifications shall meet the following offset requirements:

(a) Within a designated nonattainment area or maintenance area, the offsets shall provide reductions which are equivalent or greater than the proposed increases. The offsets shall be appropriate in terms of short term, seasonal, and yearly time periods to mitigate the impacts of the proposed emissions;

(b) Outside a designated nonattainment area or maintenance area, owners or operators of proposed major sources or major modifications which have a significant air quality impact on the nonattainment area or maintenance area shall provide emission offsets which are sufficient to reduce impacts to levels below the significant air quality impact level within the nonattainment area or maintenance area;

(c) Within an ozone nonattainment area or ozone maintenance area, owners or operators of proposed major sources or major modifications which emit VOCs or nitrogen oxides shall provide emission reductions at a 1.1 to 1 ratio (i.e., demonstrate a 10% new reduction); and

(d) Within 30 kilometers of an ozone nonattainment area or ozone maintenance area, owners or operators of proposed major sources or major modifications which emit VOCs or nitrogen oxides shall provide reductions which are equivalent or greater than the proposed emission increases unless the applicant demonstrates that the proposed emissions will not impact the nonattainment area or maintenance area.

(4) The emission reductions shall be of the same type of pollutant as the emissions from the new source or modification. Sources of PM₁₀ shall be offset with particulate in the same size range.

(5) The emission reductions shall be contemporaneous, that is, the reductions shall take effect prior to the time of startup but not more than two years prior to the submittal of a complete permit application for the new source or modification. This time limitation may be extended through banking, as provided for in OAR ~~340-028-1980~~ division 268, Emission Reduction Credit Banking. In the case of replacement facilities, the Department may allow simultaneous operation of the old and new facilities during the startup period of the new facility provided that net emissions are not increased during that time period.

(6) Special Requirements for Medford Maintenance Area for Ozone. Requirements for NO_x offsets in Section (3) of this rule do not apply to proposed major sources or major modifications in the Medford Maintenance Area for Ozone or within 30 kilometers of the Medford Maintenance Area for Ozone. VOC offsets in the Medford Maintenance Area must be equal to or greater than the proposed increase.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-47.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0260; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-028-1970.

340-028-1990224-0100

Fugitive and Secondary Emissions

Fugitive emissions shall be included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions shall be added to the primary emissions and become subject to these rules.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0270; renumbered from OAR 340-028-1990.

340-028-2000224-0110

Visibility Impact

Proposed major sources or major modifications located in Attainment, Unclassified, Nonattainment or Maintenance Areas must meet the following visibility impact requirements.

(1) Visibility impact analysis:

(a) The owner or operator of a proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate in conjunction with all other applicable emission increases or decreases, including secondary emissions, permitted since January 1, 1984, shall not cause or contribute to significant impairment of visibility within any Class I area;

(b) Owners or operators of proposed sources which are exempted under OAR ~~340-028-1940~~224-0070(3) are not required to complete a visibility impact assessment to demonstrate that the sources do not cause or contribute to significant visibility impairment within a Class I area. The visibility impact assessment for sources exempted under this section shall be completed by the Department;

(c) The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or demonstration required by these rules pursuant to OAR ~~340-028-1910~~224-0030(1) .

(2) Air quality models. All estimates of visibility impacts required under this rule shall be based on the models on file with the Department. Equivalent models may be substituted if approved by the Department. The Department will perform visibility modeling of all sources with potential emissions less than 100 tons/year of any individual pollutant and locating closer than 30 Km to a Class I area, if requested.

(3) Determination of significant impairment: The results of the modeling shall be sent to the affected land managers and the Department. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not impairment of visibility in a Class I area would result. The Department will consider the comments of the Federal Land Manager in its consideration of whether significant impairment will result. Should the Department determine that impairment would result, a permit for the proposed source will not be issued.

(4) Visibility monitoring:

(a) The owner or operator of a proposed major source or major modification which emit more than 250 tons per year of Particulate Matter, SO₂ or NO₂ shall submit with the application, subject to approval of the Department, an analysis of visibility in or adjacent to the Class I area impacted by the proposed project. As necessary to establish visibility conditions within the Class I area, the analysis shall include a collection of continuous visibility monitoring data for all pollutants emitted by the source that could potentially impact Class I area visibility. Such data shall relate to and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that data gathered over a shorter portion of the year for another representative year would be adequate to determine that the source or major modification would not cause or contribute to significant impairment. Where applicable, the owner or operator may demonstrate that existing visibility monitoring data may be suitable. Pursuant to the requirements of these rules, the owner or operator of the source shall submit, for the approval of the Department, a preconstruction visibility monitoring plan;

(b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such visibility monitoring as the Department may require as a permit condition to establish the effect which emissions of pollutant may have, or is having, on visibility conditions with the Class I area being impacted.

(5) Additional impact analysis: The owner or operator of a proposed major source or major modification subject to OAR ~~340-028-1940224-0070~~(6) (a) shall provide an analysis of the impact to visibility that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or major modification.

(6) Notification of permit application:

(a) Where a proposed major source modification impacts or may impact visibility within a Class I area, the Department shall provide written notice to the EPA and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application. Such notification shall include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area visibility. Notification will also be sent at least 30 days prior to Department Public Hearings and subsequently of any preliminary and final actions taken with regard to such application;

(b) Where the Department receives advance notification of a permit application of a source that may affect Class I area visibility, the Department will notify all affected Federal Land Managers within 30 days of such advance notice;

(c) The Department will, during its review of source impacts on Class I area visibility pursuant to this rule, consider any analysis performed by the Federal Land Manager that is provided within 30 days of notification required by subsection (a) of this section. If the Department disagrees with the Federal Land Manager's demonstration, the Department will include a discussion of the disagreement in the Notice of Public Hearing;

(d) The Federal Land Manager shall be provided an opportunity in accordance with OAR ~~340-028-1940224-0030~~(3) to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on visibility of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration, the permit shall not be issued.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 18-1984, f. & ef. 10-16-84; DEQ 14-1985, f. & ef. 10-16-85; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93;

Renumbered from 340-020-0276; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-028-2000.

DIVISION ~~21~~226

GENERAL EMISSION STANDARDS FOR PARTICULATE MATTER

[ED. NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047. Administrative Order DEQ 16 repealed previous rules OAR 340-021-0005 through 340-021-0031 (consisting of AP 1, filed 1-14-57; and SA 16, filed 2-13-62).]

340-021-0005-226-0010

Definitions

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

~~As used in OAR 340-021-0005 through 340-021-0060:~~

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

(2) "~~Coastal Areas~~" means ~~Clatsop, Tillamook, Lincoln, Coos, and Curry Counties and those portions of Douglas and Lane County west of Range 8 West, Willamette Meridian.~~

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

(4) "~~Fugitive Emissions~~" means ~~emissions of any air contaminant that escape to the atmosphere from any point or area not identifiable as a stack, vent, duct, or equivalent opening.~~

(5) "~~Municipal Waste Incinerator~~" means ~~a device used to reduce the volume of general household wastes by combustion which is capable of processing more than 200 lb/hr of such wastes but which is too small to be classed as a major source as defined by the Department's New Source Review rule, OAR 340-020-0220 to 340-020-0275.~~

(6) "New source" means, for purposes of OAR 340-226-0210, any air contaminant source installed, constructed, or modified after June 1, 1970.

(7) "~~Opacity~~" means ~~the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with OAR 340-028-1100 and 1120. Unless otherwise specified by rule, opacity shall be measured in accordance with EPA Method 9. For all standards, the minimum observation period shall be six minutes, though longer periods may be required by a specific rule or permit condition. Aggregate times (e.g. 3 minutes in any one hour) consist of the total duration of all readings during the observation period that exceed the opacity percentage in the standard, whether or not the readings are consecutive. Alternatives to EPA Method 9, such as a continuous opacity monitoring system (COMS), alternate Method 1 (LIDAR), or EPA Methods 22, or 203, may be used if approved in advance by the Department, in accordance with the Source Sampling Manual.~~

(8) "Particulate matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method in accordance with OAR 340-028-1100~~212-01120~~ and 1120~~212-01140~~. Sources with exhaust gases at or near ambient conditions may be tested with DEQ Method 5 or DEQ Method 8, as approved by the Department. Direct heat transfer sources shall be tested with DEQ Method 7; indirect heat transfer combustion sources and all other non-fugitive emissions sources not listed above shall be tested with DEQ Method 5 or an equivalent method approved by the Department;

(9) "Refuse" means unwanted matter.

(10) "~~Refuse burning equipment~~" means ~~a device designed to reduce the volume of solid, liquid, or gaseous refuse by combustion.~~

(11) "~~Standard conditions~~" means ~~a temperature of 68° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.~~

(12) "Standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from fuel or refuse burning, "standard cubic foot" also implies adjustment of gas volume to that which would result at a concentration of 12% carbon dioxide or 50% excess air.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047~~200-0040~~.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 1-1984, f. & ef. 1-16-84; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96;
renumbered from OAR 340-021-0005.

Highest and Best Practicable Treatment and Control

340-028-0600-226-0100

Highest and Best Practicable Treatment and Control Required Policy and Application

(1) As specified in OAR ~~340-028-0610~~226-0110 through ~~340-028-0640~~226-0140 and sections (2) through (5) of this rule, the highest and best practicable treatment and control of air contaminant emissions shall in every case be provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. In the case of new sources of air contamination, particularly those located in areas with existing high air quality, the degree of treatment and control provided shall be such that degradation of existing air quality is minimized to the greatest extent possible.

(2) A source shall be deemed to be in compliance with section (1) of this rule if the source is in compliance with all other applicable emission standards and requirements contained in Divisions ~~20-200~~ through ~~32-268~~ of this Chapter, ~~including but not limited to, requirements applicable to:~~

~~—(a) Specific pollutants in Divisions 21 and 22;~~

~~—(b) Specific existing and new source categories in Division 25;~~

~~—(c) Specific areas of the state in Division 30;~~

~~—(d) Hazardous Air Pollutants in Division 32;~~

~~—(e) Control requirements and operational and maintenance requirements in OAR 340-028-0620 through 340-028-0640;~~
and

~~—(f) Review of new major sources and major modifications in OAR 340-028-1900 through 340-028-2000.~~

(3) The Commission may adopt additional rules as necessary to ensure that the highest and best practicable treatment and control is provided as specified in section (1) of this rule. Such rules may include, but are not limited to, requirements:

(a) Applicable to a source category, pollutant or geographic area of the state;

(b) Necessary to protect public health and welfare for air contaminants that are not otherwise regulated by the Commission; or

(c) Necessary to address the cumulative impact of sources on air quality.

(4) The Commission encourages the owner or operator of a source to further reduce emissions from the source beyond applicable control requirements where feasible.

(5) Nothing in OAR ~~340-028-0600~~226-0100 through ~~340-028-0640~~226-0140 revokes or modifies any existing permit term or condition unless or until the Department revokes or modifies the term or condition by a permit revision. Adoption of OAR ~~340-028-0600~~226-0100 through ~~340-028-0640~~226-0140 is not intended to withdraw authority for application of any existing policy for new sources of toxic and hazardous air pollutants to a federal operating permit program source until the effective date of the program.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0001;

DEQ19-1993, f. 11-4-93 & cert. ef. 1-1-94; renumbered from OAR 340-028-0600.

340-028-0610226-0110

Pollution Prevention

The owner and operator of a source is encouraged to take into account the overall impact of the control methods selected, considering risks to all environmental media and risks from all affected products and processes. The owner or operator of a source is encouraged, but not required, to utilize the following hierarchy in controlling air contaminant emissions:

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

(2) Capture and reuse air contaminants;

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

(4) Otherwise control emissions of air contaminants.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.

Stat. Auth.: ORS 468& ORS 468A
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ19-1993, f. 11-4-93 & cert. ef. 1-1-94; renumbered from OAR 340-028-0610.

~~340-028-0620-226-0120~~

Operating and Maintenance Requirements

(1) Operational, Maintenance and Work Practice Requirements:

(a) Where the Department has determined that specific operational, maintenance, or work practice requirements are appropriate to ensure that the owner or operator of a source is operating and maintaining air pollution control equipment and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions, the Department shall establish such requirements by permit condition or notice of construction approval;

(b) Operational, maintenance and work practice requirements include:

(A) Flow rates, temperatures and other physical or chemical parameters related to the operation of air pollution control equipment and emission reduction processes;

(B) Monitoring, record-keeping, testing and sampling requirements and schedules;

(C) Maintenance requirements and schedules; or

(D) Requirements that components of air pollution control equipment be functioning properly.

(2) Emission Action Levels:

(a) Where the Department has determined that specific operational, maintenance, or work practice requirements considered or required under section (1) of this rule are not sufficient to ensure that the owner or operator of a source is operating and maintaining air pollution control equipment and emission reduction processes at the highest reasonable efficiency and effectiveness, the Department may establish, by permit or Notice of Construction approval, specific emission action levels in addition to applicable emission standards. An emission action level shall be established at a level which ensures that an air pollution control equipment or emission reduction process is operated at the highest reasonable efficiency and effectiveness to minimize emissions;

(b) If emissions from a source equal or exceed the applicable emission action level, the owner or operator of the source shall:

(A) Take corrective action as expeditiously as practical to reduce emissions to below the emission action level;

(B) Maintain records at the plant site for two years which document the exceedance, the cause of the exceedance, and the corrective action taken;

(C) Make such records available for inspection by the Department during normal business hours; and

(D) Submit such records to the Department upon request.

(c) The Department shall revise an emission action level if it finds that such level does not reflect the highest reasonable efficiency and effectiveness of air pollution control equipment and emission reduction processes;

(d) An exceedance of an emission action level which is more stringent than an applicable emission standard shall not be a violation of such emission standard.

(3) In determining the highest reasonable efficiency and effectiveness for purposes of this rule, the Department shall take into consideration operational variability and the capability of air pollution control equipment and emission reduction processes. If the performance of air pollution control equipment and emission reduction processes during start-up or shut-down differs from the performance under normal operating conditions, the Department shall determine the highest reasonable efficiency and effectiveness separately for these operating modes.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.

Stat. Auth.: ORS 468& ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ19-1993, f. 11-4-93 & cert. ef. 1-1-94; renumbered from OAR 340-028-0620.

~~340-028-0630~~226-0130

Typically Achievable Control Technology

(1) Existing Sources. The Department shall require an existing emissions unit to meet TACT for existing sources if:

(a) The emissions unit, for the pollutants emitted, is not subject to emission standards under ~~OAR 340-021-0200 through 10-021-0245, 340-022-0100~~232-0010 through 340-022-0220232-0240, OAR 340 Divisions 25-230, 234, 236, or 238 of this chapter, OAR 340-030-0015240-0110 through 340-030-0043240-0180, 340-030-0205240-0310(1), OAR 340-030-0210240-0320 through 340-030-0330240-0430, 340-030-0310, or this OAR 340 Division 224 at the time TACT is required;

(b) The source is required to have a permit;

(c) The emissions unit has emissions of criteria pollutants equal to or greater than 5 tons per year of particulate or 10 tons per year of any gaseous pollutant; and

(d) The Department determines that air pollution control equipment and emission reduction processes in use for the emissions unit do not represent TACT and that further emission control is necessary to address documented nuisance conditions, address an increase in emissions, ensure that the source is in compliance with other applicable requirements, or to protect public health or welfare or the environment.

(2) New and Modified Sources. The Department shall require a new or modified emissions unit to meet TACT for new or modified sources if:

(a) The new or modified emissions unit, for the pollutants to be emitted, is not subject to New Source Review requirements in ~~OAR 340-028-1900 through 340-028-2000~~ Division 224, an applicable Standard of Performance for New Stationary Sources in ~~OAR 340-025-0505 through 340-025-0805~~ Division 238, ~~OAR 340-030-0015240-0110 through 340-030-0043240-0180, 340-030-0205240-0310(1), OAR 340-030-0210240-320 through 340-030-0330240-0430, 340-030-0310,~~ or any other standard applicable only to new or modified sources in OAR 340 Divisions 25-230, 234, 236, or 238 ~~of this Chapter~~ at the time TACT is required;

(b) The source is required to have a permit;

(c) The emissions unit:

(A) If new, would have emissions of any criteria pollutant equal to or greater than 1 ton per year or of PM₁₀ equal to or greater than 500 pounds per year in a PM₁₀ nonattainment area; or

(B) If modified, would have an increase in emissions from the permitted level for the emissions unit of any criteria pollutant equal to or greater than 1 ton per year or of PM₁₀ equal to or greater than 500 pounds per year in a PM₁₀ nonattainment area; and

(d) The Department determines that the proposed air pollution control equipment and emission reduction processes do not represent TACT.

(3) Prior to making a TACT determination, the Department shall notify the owner or operator of a source of its intent to make such determination utilizing information known to the Department. The owner or operator of the source may supply the Department with additional information by a reasonable date set by the Department for use in making the TACT determination.

(4) The owner or operator of a source subject to TACT shall submit compliance plans and specifications by a reasonable date established by the Department for approval by the Department. The owner or operator of the source shall demonstrate compliance in accordance with a method and compliance schedule approved by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under ~~OAR 340-020-0047200-0040.~~

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 19-1993, f. 11-4-93 & cert. ef. 1-1-94; DEQ 22-1996, f. & cert. ef. 10-22-96; renumbered from OAR 340-028-0630.

~~340-028-0640-226-0140~~

Additional Control Requirements for Stationary Sources of Air Contaminants

The Department shall establish control requirements in addition to otherwise applicable requirements by permit if necessary as specified in sections (1) through (5) of this rule:

(1) Requirements shall be established to prevent violation of an Ambient Air Quality Standard caused or projected to be caused substantially by emissions from the source as determined by modeling, monitoring or a combination thereof. For existing sources, the violation of an Ambient Air Quality Standard shall be confirmed by monitoring conducted by the Department.

(2) Requirements shall be established to prevent significant impairment of visibility in Class I areas caused or projected to be caused substantially by a source as determined by modeling, monitoring or a combination thereof. For existing sources, the visibility impairment shall be confirmed by monitoring conducted by the Department.

(3) A requirement applicable to a major source shall be established if it has been adopted by EPA but has not otherwise been adopted by the Commission.

(4) An additional control requirement shall be established if requested by the owner or operator of a source.

(5) Requirements shall be established if necessary to protect public health or welfare for the following air contaminants and sources not otherwise regulated under Chapter 340, Divisions 20 through 32:

- (a) Chemical weapons; and
- (b) Combustion and degradation by-products of chemical weapons.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.
Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ19-1993, f. 11-4-93 & cert. ef. 1-1-94 [Renumbered to 340-226-0140]

Opacity and Grain Loading Standards

340-021-0012226-0200

Applicability

OAR ~~340-021-0012226-0200~~ through ~~340-021-0030226-0210~~ apply in all areas of the state.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 10-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-021-0012.

340-021-0030226-0210

Particulate Emission Limitations for Sources Other Than Fuel Burning and Refuse Burning Equipment

(1) No person shall cause, suffer, allow, or permit the emission of particulate matter, from any air contaminant source in excess of:

- (a) 0.2 grains per standard cubic foot for existing sources; or
- (b) 0.1 grains per standard cubic foot for new sources.

(2) This rule does not apply to fuel or refuse burning equipment or to fugitive emissions.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025.

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-021-0030.

Particulate Emissions from Process Equipment

340-021-0035226-0300

Applicability

OAR ~~340-021-0035226-0300~~ through ~~340-021-0045226-0320~~ apply to all non-fugitive emissions from the following process equipment:

- (1) Inertial separators without baghouses;
- (2) Calciners;
- (3) Material dryers;
- (4) Material classifiers;
- (5) Conveyors;
- (6) Size reduction equipment;
- (7) Material storage structures;
- (8) Seed cleaning devices; and
- (9) Equipment other than that for which specific emission standards have been adopted.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats Implemented: ORS 468.020 and ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-021-0035.

40-021-0040226-0310

Emission Standard

No person shall cause, suffer, allow, or permit the emission of particulate matter in any one hour from any process in excess of the amount shown in **Table 1**, for the process weight rate allocated to such process.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-021-0040.

340-021-0045226-0320

Determination of Process Weight

(1) Process weight is the total weight of all materials introduced into a piece of process equipment. Solid fuels charged are considered as part of the process weight, but liquid and gaseous fuels and combustion air are not.

(a) For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation, excluding any time during which the equipment is idle.

(b) For a continuous operation, the process weight per hour will be derived by dividing the process weight by a typical period of time, as approved by the Department.

(2) Where the nature of any process or operation or the design of any equipment permits more than one interpretation of this rule, the interpretation that results in the minimum value for allowable emission applies.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025.

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-021-0045.

Alternative Emission Controls

340-028-1030226-0400

Alternative Emission Controls (Bubble)

Alternative emission controls may be approved for use within a plant site such that specific mass emission limit rules are exceeded provided that:

(1) Such alternatives are not specifically prohibited by a permit condition.

(2) Net emissions for each pollutant are not increased above the PSEL.

(3) The net air quality impact is not increased as demonstrated by procedures required by OAR 340-028-1970224-0090, Requirements for Net Air Quality Benefit.

(4) No other pollutants including malodorous, toxic or hazardous pollutants are substituted.

(5) BACT and LAER where required by a previously issued permit pursuant to OAR 340 division 224, and NSPS, (OAR 340-025-0505 through 0805 division 238), and NESHAP, (OAR 340-032-5500 through 5650 division 244), where required, are not relaxed.

(6) Specific mass emission limits are established for each emission unit involved such that compliance with the PSEL can be readily determined.

(7) Application is made for a permit modification and such modification is approved by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0315; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-028-1030.

Table 1

(340-21-045226-0320)

Particulate Matter Emissions Standards for Process Equipment

Process Lbs/Hr	Emission Lbs/Hr	Process Lbs/Hr	Emissions Lbs/Hr	Process Lbs/Hr	Emissions Lbs/Hr
-------------------	--------------------	-------------------	---------------------	-------------------	---------------------

50	0.24	2300	4.44	7500	8.39
100	0.46	2400	4.55	8000	8.71
150	0.66	2500	4.64	8500	9.03
200	0.85	2600	4.74	9000	9.36
250	1.03	2700	4.84	9500	9.67
300	1.20	2800	4.92	10000	10.00
350	1.35	2900	5.02	11000	10.63
400	1.50	3000	5.10	12000	11.28
450	1.63	3100	5.18	13000	11.89
500	1.77	3200	5.27	14000	12.50
550	1.89	3300	5.36	15000	13.13
600	2.01	3400	5.44	16000	13.74
650	2.12	3500	5.52	17000	14.36
700	2.24	3600	5.61	18000	14.97
750	2.34	3700	5.69	19000	15.58
800	2.43	3800	5.77	20000	16.19
850	2.53	3900	5.85	30000	22.22
900	2.62	4000	5.93	40000	28.30
950	2.72	4100	6.01	50000	34.30
1000	2.80	4200	6.08	60000	40.00
1100	2.97	4300	6.15	70000	41.30
1200	3.12	4400	6.22	80000	42.50
1300	3.26	4500	6.30	90000	43.60
1400	3.40	4600	6.37	100000	44.60
1500	3.54	4700	6.45	120000	46.30
1600	3.66	4800	6.52	140000	47.80
1700	3.79	4900	6.60	160000	49.00
1800	3.91	5000	6.67	200000	51.20
1900	4.03	5500	7.03	1000000	69.00
2000	4.14	6000	7.37	2000000	77.60
2100	4.24	6500	7.71	6000000	92.70
2200	4.34	7000	8.05		

Interpolation and extrapolation of the data for process unit weight rates in excess of 60,000 lb/hr shall be accomplished by the use of the equation: $E = 55.0P^{0.11} - 40$, where E = rate of process unit emission in lb/hr and P = process weight in tons/hr.

DIVISION ~~22228~~

~~GENERAL GASEOUS EMISSIONS~~

~~Sulfur Content of Fuels~~

REQUIREMENTS FOR FUEL BURNING EQUIPMENT AND FUEL SULFUR CONTENT

[ED. NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047.]

340-021-0012228-0010

Applicability

~~OAR 340-021-0012 through 340-021-0030~~ This division applies in all areas of the state.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 10-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-021-0012.

340-022-0005228-0020

Definitions

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

~~As used in OAR 340-022-0005 through 340-022-0025:~~

(1) "ASTM" means the American Society for Testing and Materials.

~~340-021-0005~~(2) "Coastal Areas" means Clatsop, Tillamook, Lincoln, Coos, and Curry Counties and those portions of Douglas and Lane County west of Range 8 West, Willamette Meridian.

(23) "Distillate Fuel Oil" means any oil meeting the specifications of ASTM Grade 1 or 2 fuel oils;

~~340-021-0005~~(34) "Fuel burning equipment" means equipment, other than internal combustion engines, the principal purpose of which is to produce heat or power by indirect heat transfer.

(5) "New source" means any air contaminant source installed, constructed, or modified

~~340-022-0050~~(2a) for purposes of OAR 340-228-0200, after January 1, 1972; and

~~340-021-0005~~(6b) for purposes of OAR 340-228-0210, after June 1, 1970.

~~340-021-0005~~(86) "Particulate matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method in accordance with ~~OAR 340-028-1100-212-0120~~ and ~~OAR 340 212-01401420~~. Sources with exhaust gases at or near ambient conditions may be tested with DEQ Method 5 or DEQ Method 8, as approved by the Department. Direct heat transfer sources shall be tested with DEQ Method 7; indirect heat transfer combustion sources and all other non-fugitive emissions sources not listed above shall be tested with DEQ Method 5 or an equivalent method approved by the Department;

(37) "Residual Fuel Oil" means any oil meeting the specifications of ASTM Grade 4, 5, or 6 fuel oils.

~~340-021-0005~~(118) "Standard conditions" means a temperature of 68° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

~~340-021-0005~~(129) "Standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from fuel or refuse burning, "standard cubic foot" also implies adjustment of gas volume to that which would result at a concentration of 12% carbon dioxide or 50% excess air.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0005.

Sulfur Content of Fuels

340-022-0010228-0100

Residual Fuel Oils

No person shall sell, distribute, use, or make available for use, any residual fuel oil containing more than 1.75 percent sulfur by weight.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 87, f. 3-25-75, ef. 4-25-75; DEQ 141, f. & ef. 8-25-77; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0010.

340-022-0015228-0110

Distillate Fuel Oils

No person shall sell, distribute, use, or make available for use, any distillate fuel oil containing more than the following percentages of sulfur:

(1) ASTM Grade 1 fuel oil — 0.3 percent by weight.

(2) ASTM Grade 2 fuel oil — 0.5 percent by weight.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0015.

340-022-0020-228-0120

Coal

(1) Except as provided in section (2) of this rule, no person shall sell, distribute, use, or make available for use, any coal containing greater than 1.0 percent sulfur by weight.

(2) Except as provided for in sections (4) and (5) of this rule, no person shall sell, distribute, use or make available for use any coal or coal containing fuel with greater than 0.3 percent sulfur and five percent volatile matter as defined in **ASTM Method D3175** for direct space heating within the Portland, Salem, Eugene-Springfield, and Medford-Ashland Air Quality Maintenance Areas. For coals subjected to a devolatilization process, compliance with the sulfur limit may be demonstrated on the sulfur content of coal prior to the devolatilization process.

(3) Distributors of coal or coal containing fuel destined for direct residential space heating use shall keep records for a five year period which shall be available for DEQ inspection and which:

(a) Specify quantities of coal or coal containing fuels sold;

(b) Contain name and address of customers who are sold coal or coal containing fuels;

(c) Specify the sulfur and volatile content of coal or the coal containing fuel sold to residences in the Portland, Salem, Eugene-Springfield, and Medford-Ashland Air Quality Maintenance Areas.

(4) Users of coal for direct residential space heating in 1980 who apply in writing by July 1, 1983 and receive written approval from the Department shall be exempted from the requirement of section (2) of this rule provided they certify that they used more than one-half ton of coal in 1980.

(5) Distributors may sell coal not meeting specification in section (2) of this rule to those users who have applied for and received the exemption provided for in section (4) of this rule.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 3-1982, f. & ef. 1-29-82; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0020.

340-022-0025228-0130

Exemptions

Exempted from the requirements of OAR ~~340-022-0010228-0100, 340-022-0015, and through 340-022-0020228-0120~~ are:

(1) Fuels used exclusively for the propulsion and auxiliary power requirements of vessels, railroad locomotives, and diesel motor vehicles.

(2) With prior approval of the Department of Environmental Quality, fuels used in such a manner or control provided such that sulfur dioxide emissions can be demonstrated to be equal to or less than those resulting from the combustion of fuels complying with the limitations of OAR ~~340-022-0010228-0100, 340-022-0015, and through 340-022-0020228-0120~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0025.

General Emission Standards for Fuel Burning Equipment

~~340-022-0055228-0200~~

~~Fuel Burning Equipment~~Sulfur Dioxide Standards

The following emission standards are applicable to new sources only:

(1) For fuel burning equipment having a heat input capacity between 150 million BTU per hour and 250 million BTU, no person may cause, suffer, allow, or permit the emission into the atmosphere of sulfur dioxide in excess of:

(a) 1.4 lb. per million BTU heat input, maximum 2-hour average, when liquid fuel is burned;

(b) 1.6 lb. per million BTU heat input, maximum 2-hour average, when solid fuel is burned.

(2) For fuel burning equipment having a heat input capacity of more than 250 million BTU per hour, no person may cause, suffer, allow, or permit the emission into the atmosphere of sulfur dioxide in excess of:

(a) 0.8 lb. per million BTU heat input, maximum 2-hour average, when liquid fuel is burned;

(b) 1.2 lb. per million BTU heat input, maximum 2-hour average, when solid fuel is burned.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1996, f. & cert. ef. 10-22-96; renumbered from OAR 340-022-0055.

~~340-021-0020228-0210~~

~~Fuel Burning Equipment~~LimitationsGrain Loading Standards

(1) No person shall cause, suffer, allow, or permit the emission of particulate matter, from any fuel burning equipment in excess of:

(a) 0.2 grains per standard cubic foot for existing sources;

(b) 0.1 grains per standard cubic foot for new sources.

(2) For sources burning salt laden wood waste on July 1, 1981, where salt in the fuel is the only reason for failure to comply with the above limits and when the salt in the fuel results from storage or transportation of logs in salt water, the resulting salt portion of the emissions shall be exempted from subsection (1)(a) or (b) of this rule and OAR ~~340-021-0015208-0110~~. In no case shall sources burning salt laden wood waste exceed 0.6 grains per standard cubic foot. Sources which utilize this exemption, to demonstrate compliance otherwise with subsection (1)(a) or (b) of this rule, shall submit the results of a particulate emissions source test of the boiler stacks bi-annually.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 12-1979, f. & ef. 6-8-79; DEQ 6-1981, f. & ef. 2-17-81; DEQ 18-1982, f. & ef. 9-1-82; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-021-0020.

Federal Acid Rain Program

~~340-022-0075-228-0300~~

Federal Regulations Adopted by Reference

(1) **40 CFR Part 72 (July 1, 1994)** is by this reference adopted and incorporated herein, for purposes of implementing an acid rain program that meets the requirements of title IV of the Clean Air Act. The term "permitting authority" shall mean the Oregon Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency.

(2) If the provisions or requirements of **40 CFR Part 72** conflict with or are not included in ~~OAR 340-028-2100 through 340-028-2740 Divisions 218 or 220~~, the **Part 72** provisions and requirements shall apply and take precedence.

Stat. Auth.: ORS 468.020 & ORS 468.310(2)

Stats. Implemented: ORS 468A.025

Hist.: DEQ 32-1994, f. & cert. ef. 12-22-94; renumbered from OAR 340-222-0075.

DIVISION 230

INCINERATOR REGULATIONS

Incinerator Regulations

340-025-0850230-0010

Purpose

The purpose of ~~OAR 340-025-0850 through 340-025-0905~~ this division is to establish state of the art emission standards, design requirements, and performance standards for all solid and infectious waste incinerators, hospital/medical/infectious waste incinerators, and crematory incinerators and municipal waste combustors in order to minimize air contaminant emissions and provide adequate protection of public health.

Stat. Auth.: ORS 183, ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0850.

340-025-0852230-0020

Applicability

(1) ~~OAR 340-025-0855230-0030 through 340-025-0885230-0150~~ apply to all solid and infectious waste incinerators other than:

(a) municipal waste combustors, including those municipal waste combustors that burn some medical waste, that are subject to either OAR 340-025-0556238-0060, 340-025-0557, or 340-025-0950230-0300 through 340-025-1010230-0360, and

(b) hospital/medical/infectious waste incinerators that are subject to OAR 340-230-0400 through 340-230-0410.

(2) OAR 340-025-0890230-0200 through 340-025-0905230-0230 apply to all new and existing crematory incinerators;

(3) OAR 340-230-0300 through 340-230-0360 apply to municipal waste combustors as specified in OAR 340-230-0300.

(4) OAR 340-230-0400 through 340-230-0410 apply to hospital/medical/infectious waste incinerators as specified in OAR 340-230-0400.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; renumbered from OAR 340-025-0852.

340-025-0855230-0030

Definitions

~~As used in OAR 340-025-0850 through 340-025-0905:~~ The definitions in OAR 340-200-0020, 340-238-0040 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-238-0040, the definition in this rule applies to this division. ~~OAR 340-025-0750(3) Definitions. As used in this rule, Applicable~~ definitions shall have the meaning given in **40 CFR Section 60.51c** including, but not limited to:

(1) "Acid Gases" means any exhaust gas which includes hydrogen chloride and sulfur dioxide.

(2) "Best Available Control Technology (BACT)" means an emission limitation as defined by ~~OAR 340-020-0225(4)200-0020(14).~~

~~OAR 340-025-0750(3)(a)(3)~~ "Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells;

~~OAR 340-025-0750(3)(b)(4)~~ "Co-fired combustor" means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, 10 percent or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted;

(35) "Continuous Emission Monitoring (CEM)" means a monitoring system for continuously measuring the emissions of a pollutant from an affected incinerator. Continuous monitoring equipment and operation shall be certified in accordance with

EPA performance specifications and quality assurance procedures outlined in **40 CFR Part 60, Appendices B and F**, and the Department's **CEM Manual**.

(46) "Crematory Incinerator" means an incinerator used solely for the cremation of human and animal bodies.

(57) "Department" means the Department of Environmental Quality.

(86) "Dry Standard Cubic Foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from waste or refuse burning, "Standard Cubic Foot (SCF)" implies adjustment of gas volume to that which would result at a concentration of seven percent oxygen or 50 percent excess air.

(79) "Existing" means constructed or modified prior to March 13, 1990.

(810) "Emission" means a release into the atmosphere of air contaminants.

(911) "Fugitive Emissions" means the same as defined in OAR 340-020-0225(11)200-0020(50).

~~OAR 340-025-0750(3)(e)(12)~~ "Hospital" means any facility which has an organized medical staff, maintains at least six inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of 24 hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuous medical supervision;

~~OAR 340-025-0750(3)(d)(13)~~ "Hospital/medical/infectious waste incinerator" or HMIWI means any device that combusts any amount of hospital waste and/or medical/infectious waste;

~~OAR 340-025-0750(3)(e)(14)~~ "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. This definition does not include human corpses, remains and anatomical parts intended for interment or cremation;

(4015) "Incinerator" means any structure or furnace in which combustion takes place, the primary purpose of which is the reduction in volume and weight of unwanted material.

~~OAR 340-025-0750(3)(f)(16)~~ "Infectious agent" means any organism such as a virus or bacteria that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans;

(417) "Infectious Waste" means waste as defined in ORS Chapter 763, Oregon Laws 1989, which contains or may contain any disease producing microorganism or material, and includes, but is not limited to the following:

(a) "Biological waste", which includes blood and blood products, and body fluids that cannot be directly discarded into a municipal sewer system, and waste materials saturated with blood or body fluids, but does not include soiled diapers;

(b) "Cultures and stocks", which includes etiologic agents and associated biologicals; including specimen cultures and dishes, devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and discarded live and attenuated vaccines. "Cultures" does not include throat and urine cultures;

(c) "Pathological waste", which includes biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological wastes" does not include teeth or formaldehyde or other preservative agents;

(d) "Sharps", which includes needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.

(4218) "Infectious Waste Facility" or "Infectious Waste Incinerator" means an incinerator which is operated or utilized for the disposal or treatment of infectious waste, including combustion for the recovery of heat, and which utilizes high temperature thermal destruction technologies.

~~OAR 340-025-0750(3)(g)(19)~~ "Large HMIWI", except as provided in Subsection (Dd)(iA) and (iiB) means:

(Aa) A HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour; or

(Bb) A continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or

(Cc) A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day;

(Dd) The following are not large HMIWI:

(iA) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 500 pounds per hour; or

(iiB) A batch HMIWI whose maximum charge rate is less than or equal to 4,000 pounds per day.

~~OAR 340-025-0750(3)(h)(20)~~ "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state

standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2));

~~0AR 340-025-0750(3)(i)(21)~~ "Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production of testing of biologicals that is listed in paragraphs (Aa) through (Gg) of this definition. The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in part 261 of Chapter I; household waste as defined in Subsection 261.4(b)(1) of Chapter I; ash from incineration of medical/infectious waste once the incineration process is completed; human corpses, remains, and anatomical parts intended for interment or cremation and domestic sewage materials identified in Subsection 261.4(a)(1) of Chapter I:

(Aa) Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate and mix cultures;

(Bb) Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers;

(Cc) Human blood and blood products including:

(iA) Liquid waste human blood;

(iiB) Products of blood;

(iiiC) Items saturated and/or dripping with human blood; or

(ivD) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

(Dc) Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips;

(Ee) Animal waste including contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals;

(Ff) Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases;

(Gg) Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes and scalpel blades.

~~0AR 340-025-0750(3)(j)(22)~~ "Medium HMIWI", except as provided in (i) means:

(Aa) A HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

(Bb) A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

(Cc) A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day. The following are not medium HMIWI:

(iA) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour or more than 500 pounds per hour; or

(iiB) A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day or less than or equal to 1,600 pounds per day.

~~0AR 340-025-0750(3)(k)(23)~~ "Modification or modified hospital/medical/infectious waste incinerator" means any change to a HMIWI unit after the effective date of these standards such that:

(Aa) The cumulative costs of the modifications, over the life of the unit, exceed 50 per cent of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or

(Bb) The change involves a physical change or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under Section 129 or Section 111.

~~OAR 340-025-0950(3)(a)(24)~~ "Municipal waste combustor plant" means one or more municipal waste combustor units at the same location for which construction was commenced on or before September 20, 1994.

~~OAR 340-025-0950(3)(b)(25)~~ "Municipal waste combustor plant capacity" means the aggregate municipal waste combustor unit capacity of all municipal waste combustor units at a municipal waste combustor plant for which construction was commenced on or before September 20, 1994.

~~(1326)~~ "New" means constructed or modified on or after March 13, 1990.

~~(1427)~~ "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background.

~~(1528)~~ "Particulate Matter" means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured by EPA Method 5 or an equivalent test method in accordance with the Department **Source Test Manual**. Particulate matter emission determinations by EPA Method 5 shall consist of the average of three separate consecutive runs having a minimum sampling time of 60 minutes each and a minimum sampling volume of 30.0 dscf each.

~~(1629)~~ "Parts Per Million (ppm)" means parts of a contaminant per million parts of gas by volume on a dry-gas basis (1 ppm equals 0.0001 percent by volume).

~~OAR 340-025-0750(3)(l)(30)~~ "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material and animal bedding (if applicable);.

~~(1731)~~ "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

~~(1832)~~ "Primary Combustion Chamber" means the discrete equipment, chamber or space in which drying of the waste, pyrolysis, and essentially the burning of the fixed carbon in the waste occurs.

~~OAR 340-025-0750(3)(m)(33)~~ "Pyrolysis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy;.

~~(1934)~~ "Secondary" or "Final Combustion Chamber" means the discrete equipment, chamber, or space in which the products of pyrolysis are combusted in the presence of excess air such that essentially all carbon is burned to carbon dioxide.

~~OAR 340-025-0750(3)(n)(35)~~ "Small hospital/medical/infectious waste incinerator", except as provided in (i), means:

(Aa) A HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour; or

(Bb) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or

(Cc) A batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day. The following are not

small HMIWI:

(iA) A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour;

(iiB) A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day.

~~(2036)~~ "Solid Waste" means refuse, more than 50 percent of which is waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials, and noncombustible materials such as metal, glass, and rock.

~~(2137)~~ "Solid Waste Facility" or "Solid Waste Incinerator" means an incinerator which is operated or utilized for the disposal or treatment of solid waste including combustion for the recovery of heat, and which utilizes high temperature thermal destruction technologies.

~~(2238)~~ "Standard Conditions" means temperature of 68 degrees Fahrenheit (15.6 degrees Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 kilograms per square centimeter).

~~(2339)~~ "Startup/Shutdown" means the time during which an air contaminant source or emission control equipment is brought into normal operation and normal operation is terminated, respectively.

~~(2440)~~ "Transmissometer" means a device that measures opacity and conforms to EPA Specification Number 1 in **Title 40, CFR, Part 60, Appendix B**.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 183, ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0855.

Solid and Infectious Waste Incinerators

340-025-0860230-0100

Best Available Control Technology

(1) Notwithstanding the specific emission limits set forth in OAR ~~340-025-0865230-0110~~, in order to maintain overall air quality at the highest possible levels, all solid waste facilities and infectious waste facilities are required to use Best Available Control Technology (BACT). In no event shall the application of BACT result in emissions of any air contaminant which would exceed the emission limits set forth in OAR ~~340-025-0860230-0100~~ through ~~340-025-0885230-0150~~.

(2) All installed equipment shall be operated and maintained in such a manner that emissions of air contaminants are kept at lowest possible levels.

Stat. Auth.: ORS 183, ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0860.

340-025-0865230-0110

Emissions Limitations

No person shall cause, suffer, allow, or permit the operation of any solid waste facility or infectious waste facility in a manner which violates the following emission limits and requirements:

(1) Particulate Emissions:

(a) For new incinerator facilities, emissions from each stack shall not exceed 0.015 grains per dry standard cubic foot of exhaust gases corrected to seven percent O₂ at standard conditions;

(b) For existing incinerator facilities, emissions from each stack shall not exceed 0.030 grains per dry standard cubic foot of exhaust gases corrected to seven percent O₂ at standard conditions.

(2) Hydrogen Chloride (HCl). For all incinerator facilities, emissions of hydrogen chloride from each stack shall not exceed 50 ppm during any 60-minute period corrected to seven percent O₂; or shall be reduced by at least 90 percent by weight on an hourly basis.

(3) Sulfur Dioxide (SO₂). For all incinerator facilities, emissions of sulfur dioxide from each stack shall not exceed 50 ppm as a running three-hour average corrected to seven percent O₂; or shall be reduced by at least 70 percent by weight on a three-hour basis.

(4) Carbon Monoxide (CO). For all incinerator facilities, emissions of carbon monoxide from each stack shall not exceed 100 ppm as a running eight-hour average corrected to seven percent O₂.

(5) Nitrogen Oxide (NO_x). Emissions of nitrogen oxide from each stack shall not exceed 200 ppm as a running 24-hour average corrected to seven percent O₂ for new incinerator facilities capable of processing more than 250 tons/day of wastes.

(6) Opacity. The opacity as measured visually or by a transmissometer shall not exceed ten percent for a period aggregating more than six minutes in any 60-minute period.

(7) Fugitive Emissions. Solid waste incinerator facilities shall be operated in a manner which prevents or minimizes fugitive emissions, including the paving of all normally traveled roadways within the plant boundary and enclosing all material transfer points.

(8) Other Wastes. No solid waste incinerator or infectious waste incinerator shall burn radioactive or hazardous waste, or any other waste not specifically authorized in the Department's Air Contaminant Discharge Permit.

(9) Other Contaminants. In the absence of an air-contaminant-specific emission limit or ambient air quality standard, the Department may establish by permit emission limits for any hazardous air contaminants that are more protective of human health and the environment for any solid waste incinerator or infectious waste incinerator.

Stat. Auth.: ORS 183, ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0865.

340-025-0870230-0120

Design and Operation

(1) Temperature and Residence Time. Each incinerator shall be designed and operated to maintain combustion gases at a minimum temperature of 1,800° F. for at least one second residence time. For a multi-chamber incinerator, these parameters must be met after the primary combustion chamber, which shall be maintained at no less than 1,400° F.

(2) Auxiliary Burners. Each incinerator shall be designed and operated with automatically controlled auxiliary burners capable of maintaining the combustion chamber temperatures specified in section (1) of this rule, and shall have sufficient auxiliary fuel capacity to maintain said temperatures.

(3) Interlocks. Each incinerator shall be designed and operated with an interlock system which:

(a) Prevents charging until the final combustion chamber reaches 1,800° F.;

(b) For batch-fed incinerators, prevents recharging until each combustion cycle is complete;

(c) Ceases charging if the incinerator temperature falls below either 1,800° F. for any continuous 15-minute period; and

(d) Ceases charging if carbon monoxide levels exceed 150 ppm, corrected to seven percent O₂ over a continuous 15-minute period. Existing incinerators may request from the Department, and the Department may grant, an exemption for installing an interlock system, if it can be shown to the satisfaction of the Department that such a system would not allow sufficient flexibility in operation, or that significant technical or economic constraints would prevent retrofitting.

(4) Air Locks. All infectious waste facilities with mechanically fed incinerators shall be designed and operated with an air lock control system to prevent opening the incinerator to the room environment. The volume of the loading system must be designed so as to prevent overcharging to assure complete combustion of the waste.

(5) Flue Gas Outlet Temperature. Each incinerator shall be designed and operated such that the flue gas temperature at the outlet from the primary control device does not exceed 350° F., unless it can be demonstrated that a greater collection of condensable matter can be achieved at a higher outlet temperature.

(6) Combustion efficiency. Except during periods of startup and shutdown, all waste incinerators shall achieve a combustion efficiency of 99.9 percent based on a running eight-hour average, computed as follows:

$$CE = \frac{CO_2}{CO_2 + CO} \times 100$$

CO = Carbon monoxide in the exhaust gas, parts per million by volume (dry)

CO₂ = Carbon dioxide in the exhaust gas, parts per million by volume (dry)

(7) Stack Height. All incinerator stacks shall be designed in accordance with Good Engineering Practice (GEP) as defined in **Title 40, CFR, Parts 51.100(ii) and 51.118**, in order to assure compliance with applicable air standards, and to avoid the flow of stack pollutants into any building ventilation intake plenum.

(8) Operator Training and Certification. Each incinerator shall be operated at all times under the direction of one or more individuals who have received training necessary for proper operation. A description of the training program shall be submitted to the Department for approval. A satisfactory training program shall consist of any of the following:

(a) Certification by the American Society of Mechanical Engineers (ASME) for solid waste incinerator operation; or

(b) For infectious waste incineration, successful completion of EPA's Medical Waste Incinerator Operator training course;

or

(c) Other certification or training by a qualified organization as to proper operating practices and procedures, which has been pre-approved by the Department prior to enrollment. In addition, the owner or operator of an incinerator facility shall develop and submit a manual for proper operation and maintenance, to be reviewed with employees responsible for incinerator operation on an annual basis.

(9) In cases where incinerator operation may cause odors which unreasonably interfere with the use and enjoyment of property, the Department may require by permit the use of good practices and procedures to prevent or eliminate those odors.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 183, ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0870.

340-025-0875230-0130

Continuous Emission Monitoring

(1) All solid waste incinerators shall operate and maintain continuous monitoring for the following:

(a) Sulfur dioxide;

(b) Carbon monoxide;

(c) Opacity;

(d) Final Combustion Chamber Exit Temperature;

- (e) Control Equipment Outlet Temperature;
 - (f) Oxygen; and
 - (g) Nitrogen Oxide — New facilities only (over 250 tons/day).
- (2) All infectious waste incinerators shall operate and maintain continuous monitoring for the following:
- (a) Carbon monoxide;
 - (b) Opacity; and
 - (c) Final Combustion Chamber Exit Temperature.

(3) The Department may at any time require the installation of hydrogen chloride monitors for any solid and infectious waste incinerator, or sulfur dioxide monitors for any infectious waste incinerator, if the Department determines such monitoring is necessary, in order to demonstrate compliance with the hydrogen chloride emission limit.

(4) The monitors specified above shall comply with EPA performance specifications in **Title 40, CFR, Part 60, Appendix B**, and the Department's **CEM Manual**. All monitoring equipment shall be located so as to accurately monitor emission levels, in order to demonstrate compliance with OAR 340-025-0865230-0110.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 183, ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0875.

340-025-0880230-0140

Reporting and Testing

(1) Reporting:

(a) Stack test results shall be reported to the Department within 60 days of completion;

(b) All records associated with continuous monitoring data including, but not limited to, original data sheets, charts, calculations, calibration data, production records and final reports shall be maintained for a continuous period of at least one year and shall be furnished to the Department upon request.

(2) Source Testing:

(a) All solid waste incinerators and infectious waste incinerators must be tested to demonstrate compliance with the standards in OAR 340-025-0860230-0100 through 340-025-0885230-0150;

(b) Source testing shall be conducted at the maximum design rate using waste that is representative of normal operation. If requested by the owner/operator, source testing may be performed at a lower rate, however, permit limits will be established based on the lower rate of operation;

(c) Unless otherwise specified by the Department, each incinerator shall be tested at start-up and annually thereafter for particulate, hydrogen chloride, sulfur dioxide, and carbon monoxide emissions.

(3) Hazardous or Toxic Air Contaminant Source Testing. The Department may at any time, conduct or require source testing and require access to information specific to the control, recovery, or release of hazardous or toxic air contaminants.

Stat. Auth.: ORS 183, ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0880.

340-025-0885230-0150

Compliance

(1) All existing waste incinerators must demonstrate compliance with the applicable provisions of OAR 340-025-0860230-0100 through 340-025-0885230-0150 by March 13, 1995, or by the date required by applicable federal guidelines adopted by the Environmental Protection Agency, whichever is sooner. Existing data such as that collected in accordance with the requirements of an Air Contaminant Discharge Permit may be used to demonstrate compliance. ~~Until compliance is demonstrated, existing sources shall be subject to OAR 340-021-0025 and 340-021-0027 and all applicable permit conditions.~~

(2) New solid waste incinerators and infectious waste incinerators must demonstrate compliance with the emission limits and operating requirements of OAR 340-025-0860230-0100 through 340-025-0885230-0150 in accordance with a schedule established by the Department before commencing regular operation.

(3) Compliance with OAR 340-025-0860230-0100 through 340-025-0885230-0150 does not relieve the owner or operator of the source from the responsibility to comply with requirements of the Department's Solid and Hazardous Waste rules, OAR Chapter 340, Division 61, regarding the disposal of ash generated from waste incinerators.

Stat. Auth.: ORS 183, ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0885.

Crematory Incinerators

340-025-0890230-0200

Emission Limitations

(1) No person may cause to be emitted particulate matter from any crematory incinerator in excess of 0.080 grains per dry standard cubic foot of exhaust gases corrected to 7 percent O₂ at standard conditions.

(2) Opacity. No visible emissions may be present except for a period aggregating no more than six minutes in any 60 minute period and not exceeding 20% opacity as measured by EPA Method 9.

(3) Odors. In cases where incinerator operation may cause odors which unreasonably interfere with the use and enjoyment of property, the Department may require by permit the use of good practices and procedures to prevent or eliminate those odors.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 15-1992, f. & cert. ef. 8-3-92 (and corrected 8-11-92); Section (3) Renumbered from 340-025-0895(3); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-025-0890.

340-025-0895230-0210

Design and Operation

(1) Temperature and Residence Time. The temperature at the final combustion chamber shall be 1800°F. for new incinerators, and 1600°F. for existing incinerators, with a residence time of at least 0.5 second. At no time while firing material may the temperature in the final chamber fall below 1400°F.

(2) Operator Training and Certification. Each crematory incinerator shall be operated at all times under the direction of individuals who have received training necessary for proper operation. The following shall be available on-site at all times for department inspection:

(a) A description of a Department-approved training program; and

(b) A written statement signed by each operator stating that the operator has undergone and understood the training program.

(3) As defined in OAR ~~340-025-0855230-0030~~(4), crematory incinerators may only be used for incineration of human and animal bodies, and appropriate containers. No waste, including infectious waste as defined in OAR ~~340-025-0855230-0030~~, may be incinerated unless specifically authorized in the Department's Air Contaminant Discharge Permit.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 15-1992, f. & cert. ef. 8-3-92 (and corrected 8-11-92); Section (3) Renumbered from 340-025-0890(3); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-025-0895.

340-025-0900230-0220

Monitoring and Reporting

(1) All crematory incinerators shall operate and maintain continuous monitoring for final combustion chamber exit temperature. The monitoring device shall be installed and operated in accordance with the manufacturer's instructions, and shall be located in an area of the secondary combustion chamber that will allow evaluation of compliance with OAR ~~340-025-0895-230-0210~~

(2) All records associated with continuous monitoring data including, but not limited to, original data sheets, charts, calculations, calibration data, production records and final reports shall be maintained for a continuous period of at least one year and shall be furnished to the Department upon request.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-025-0900.

340-025-0905230-0230

Compliance

- (1) A source must demonstrate compliance with OAR ~~340-025-0890~~230-0200:
- (a) If the source is a new crematory incinerator; or
 - (b) If the source violates the requirements OAR ~~340-025-0890~~230-0200(2) or (3); or
 - (c) At the Department's request.
- (2) As proof of compliance, a source may submit to the Department:
- (a) A source test conducted in accordance with OAR ~~340-028-1100~~212-0120 through ~~340-028-1120~~212-0140; or
 - (b) The results of testing performed on a crematory incinerator that the Department agrees is comparable to the incinerator in question.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 15-1992, f. & cert. ef. 8-3-92 (and corrected 8-11-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1996, f. & cert. ef. 9-24-96; renumbered from OAR 340-025-0905.

Municipal Waste Combustors at ~~Municipal Combustor Plants Greater than 35 Megagrams Per Day that Commenced Construction On or Before September 20, 1994~~

~~340-025-0950~~230-0300

Applicability and Definitions

(1) Applicability: OAR ~~340-025-0960~~230-0310 through ~~340-025-1010~~230-0360 apply to each municipal waste combustor unit located within a municipal waste combustor plant with an aggregate municipal waste combustor plant capacity greater than 35 megagrams per day of municipal solid waste for which construction was commenced on or before September 20, 1994.

(a) MWC greater than 225 megagrams per day that commenced construction after September 20, 1989 and on or before September 20, 1994 are also subject to **40 CFR Part 60 Subpart Ea** as adopted under OAR ~~340-025-0556~~238-0060.

(b) MWC subject to OAR ~~340-025-0950~~230-0300 through ~~340-025-1010~~230-0360 are not subject to the incinerator rules of OAR ~~340-025-0845~~230-0100 through ~~340-025-0885~~230-0150.

(2) Exemptions:

(a) Any waste combustion unit at a medical, industrial, or other type of waste combustor plant that is capable of combusting more than 35 megagrams per day of municipal solid waste and is subject to a federally enforceable permit limiting the plantwide maximum amount of municipal solid waste that may be combusted to less than or equal to 10 megagrams per day is not subject to this rule if the owner or operator:

(A) Notifies the Department of an exemption claim;

(B) Provides a copy of the federally enforceable permit that limits the firing of municipal solid waste to less than 10 megagrams per day; and

(C) Keeps records of the amount of municipal solid waste fired on a daily basis.

(b) Physical or operational changes made to an existing municipal waste combustor unit primarily for the purpose of complying with emission limits under these rules are not considered in determining whether the unit is a modified or reconstructed facility under **40 CFR Part 60, Subparts Ea or subpart Eb**.

(c) A qualifying small power production facility, as defined in **section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C))**, that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy is not subject to these rules if the owner or operator of the facility notifies the Department of this exemption and provides data documenting that the facility qualifies for this exemption.

(d) A qualifying cogeneration facility, as defined in **section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B))**, that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy and steam or forms of useful energy (such as heat) that are used for industrial, commercial, heating, or cooling purposes, is not subject to these rules if the owner or operator of the facility notifies the Department of this exemption and provides data documenting that the facility qualifies for this exemption.

(e) Any unit combusting a single-item waste stream of tires is not subject to this rule if the owner or operator of the unit:

(A) Notifies the Department of an exemption claim; and

(B) Provides data documenting that the unit qualifies for this exemption.

(f) Any unit required to have a permit under **section 3005 of the Solid Waste Disposal Act** is not subject to these rules.

(g) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to these rules.

(h) Any cofired combustor, as defined under **40 CFR Part 60.51b of Subpart Eb**, that meets the capacity specifications in paragraph (1) of this rule is not subject to these rules if the owner or operator of the cofired combustor:

(A) Notifies the Department of an exemption claim;

(B) Provides a copy of the federally enforceable permit (specified in the definition of cofired combustor); and

(C) Keeps a record on a calendar quarter basis of the weight of municipal solid waste combusted at the cofired combustor and the weight of all other fuels combusted at the cofired combustor.

(i) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit (as defined in **40 CFR 60.51b**) are not subject to this rule if the owner or operator of the plastics/rubber recycling unit keeps records of:

(A) The weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis;

(B) The weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis; and

(C) The name and address of the purchaser of the feedstocks. The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to these rules.

~~(3) Definitions. Terms used in OAR 340-025-0950 through 340-025-1010 but not defined in this rule have the meaning given them in the Clean Air Act, OAR 340-025-0510, and OAR 340-025-0557(3).~~

~~—(a) “Municipal waste combustor plant” means one or more municipal waste combustor units at the same location for which construction was commenced on or before September 20, 1994.~~

~~—(b) “Municipal waste combustor plant capacity” means the aggregate municipal waste combustor unit capacity of all municipal waste combustor units at a municipal waste combustor plant for which construction was commenced on or before September 20, 1994.~~

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; renumbered from OAR 340-025-0950.

340-025-0960230-0310

Emissions Limitations

No person shall cause, suffer, allow, or permit the operation of any affected municipal waste combustor unit in a manner which violates the following emission limits and requirements:

(1) Particulate Matter Emissions:

(a) For municipal waste combustor units located at large municipal waste combustor plants, particulate emissions from each unit shall not exceed 27 milligrams per dry standard cubic meter (0.012 grains per dry standard cubic foot) corrected to 7 percent oxygen;

(b) For municipal waste combustor units located at small municipal waste combustor plants, particulate emissions from each unit shall not exceed 70 milligrams per dry standard cubic meter (0.030 grains per dry standard cubic foot) corrected to 7 percent oxygen.

(2) Opacity. For municipal waste combustor units located at large and small municipal waste combustor plants, visible emissions from each unit shall not exceed 10 percent opacity as a 6-minute average.

(3) Municipal Waste Combustor Metals:

(a) Cadmium:

(A) For municipal waste combustor units located at large municipal waste combustor plants, cadmium emissions from each unit shall not exceed 0.040 milligrams per dry standard cubic meter (0.000018 gr/dscf) corrected to 7 percent oxygen.

(B) For municipal waste combustor units located at small municipal waste combustor plants, cadmium emissions from each unit shall not exceed 0.10 milligrams per dry standard cubic meter (0.000044 gr/dscf) corrected to 7 percent oxygen.

(b) Lead:

(A) For municipal waste combustor units located at large municipal waste combustor plants, lead emissions from each unit shall not exceed 0.49 milligrams per dry standard cubic meter (0.00021 gr/dscf) corrected to 7 percent oxygen.

(B) For municipal waste combustor units located at small municipal waste combustor plants, lead emissions from each unit shall not exceed 1.6 milligrams per dry standard cubic meter (0.00070 gr/dscf) corrected to 7 percent oxygen.

(c) Mercury. For municipal waste combustor units located at large and small municipal waste combustor plants, mercury emissions from each unit shall not exceed 0.080 milligrams per dry standard cubic meter (0.000035 gr/dscf) or 15 percent of the potential mercury emission concentration (an 85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

(4) Sulfur Dioxide (SO₂):

(a) For municipal waste combustor units located at large municipal waste combustor plants, sulfur dioxide emissions from each unit shall not exceed 31 parts per million by volume or 25 percent of the potential sulfur dioxide emission concentration (75-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(b) For municipal waste combustor units located at small municipal waste combustor plants, sulfur dioxide emissions from each unit shall not exceed 50 parts per million by volume or 30 percent of the potential sulfur dioxide emission concentration (70-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(5) Hydrogen chloride (HCl):

(a) For municipal waste combustor units located at large municipal waste combustor plants, hydrogen chloride emissions from each unit shall not exceed 31 parts per million by volume or 5 percent of the potential hydrogen chloride emission concentration (95-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

(b) For municipal waste combustor plants located at small municipal waste combustor plants, hydrogen chloride emissions from each unit shall not exceed 50 parts per million by volume or 10 percent of the potential hydrogen chloride emission concentration (90-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

(6) Dioxins/furans:

(a) For municipal waste combustor units located at large municipal waste combustor plants, the dioxin/furan emissions from each unit shall not exceed:

(A) 60 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen, for municipal waste combustor units that employ an electrostatic precipitator-based emission control system;

(B) 30 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen, for municipal waste combustor units that do not employ an electrostatic precipitator-based emission control system.

(b) For municipal waste combustor units located at small municipal waste combustor plants, the dioxin/furan emissions from each unit shall not exceed 125 nanograms per dry standard cubic meter, corrected to 7 percent oxygen.

(7) Nitrogen Oxide (NO_x). For municipal waste combustor units located at large municipal waste combustor plants, emissions of nitrogen oxides from each unit shall not exceed 200 ppm as a 24-hour daily arithmetic average corrected to 7 percent O₂.

(8) Fugitive Emissions:

(a) No owner or operator shall cause or allow visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of 5 percent of the observation period (i.e., 9 minutes per 3-hour period), as determined by **EPA Reference Method 22** observations, except as provided in paragraphs (b) and (c) of this section.

(b) The emission limit specified in paragraph (a) of this section does not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however, the emission limit specified in paragraph (a) of this section does cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems.

(c) The provisions specified in paragraph (a) of this section do not apply during maintenance and repair of ash conveying systems.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; renumbered from OAR 340-025-0960.

340-025-0970230-0320

Operating Practices

(1) Carbon Monoxide:

(a) For municipal waste combustor units located at large municipal waste combustor plants, emissions of Carbon Monoxide from each unit shall not exceed 100 ppm corrected to 7 percent O₂ as a four hour block arithmetic average.

(b) For municipal waste combustor units located at small municipal waste combustor plants, emissions of Carbon Monoxide from each unit shall not exceed 50 ppm corrected to 7 percent O₂ as a four hour block arithmetic average.

(2) No owner or operator of an affected facility located within a small or large municipal waste combustor plant shall cause such facility to operate at a load level greater than 110 percent of the maximum demonstrated municipal waste combustor unit load as defined in ~~OAR 340-025-0557(3)(gg)~~, **40 CFR Part 60, Subpart Eb** as adopted under OAR 340-238-0060 except as specified in (a) and (b) of this section. The averaging time shall be a 4-hour block arithmetic average.

(a) During the annual dioxin/furan performance test and the 2 weeks preceding the annual dioxin/furan performance test, no municipal waste combustor unit load limit is applicable.

(b) The municipal waste combustor unit load limit may be waived in accordance with permission granted by the Administrator or the Department in writing for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions.

(3) No owner or operator of an affected facility located within a small or large municipal waste combustor plant shall cause such facility to operate at a temperature, measured at the particulate matter control device inlet, exceeding 17°C above the maximum demonstrated particulate matter control device temperature as defined in **40 CFR 60 subpart Eb** as adopted under OAR 340-238-0060 ~~OAR 340-025-0557(3)(u)~~, except as specified in (a) and (b) of this section. The averaging time shall be a 4-hour block arithmetic average. The requirements specified in this paragraph apply to each particulate matter control device utilized at the affected facility.

(a) During the annual dioxin/furan performance test and the 2 weeks preceding the annual dioxin/furan performance test, no particulate matter control device temperature limitations are applicable.

(b) The particulate matter control device temperature limits may be waived in accordance with permission granted by the Administrator or delegated State regulatory authority for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; renumbered from OAR 340-025-0970.

340-025-0980230-0330

Operator Training and Certification

(1) Each chief facility operator and shift supervisor shall have completed full certification with either the **American Society of Mechanical Engineers [QRO-1-1994 -- see 40 CFR 60.17]** or other State approved certification program.

(2) If a chief facility operator or shift supervisor is not fully certified in accordance with OAR 340-025-0980230-0330(1), the chief facility operator or shift supervisor must obtain and maintain a current provisional operator certification from either the **American Society of Mechanical Engineers (ASME) [QRO-1-1994 -- see 40 CFR 60.17]** or other State approved certification and must have scheduled a full certification exam with either the **ASME [QRO-1-1994]** or other State approved certification program.

(3) No owner or operator of an affected facility located within a small or large municipal waste combustor plant shall allow the facility to be operated at any time unless one of the following persons is on duty and at the affected facility: A fully certified chief facility operator, a provisionally certified chief facility operator who is scheduled to take the full certification exam, a fully certified shift supervisor, or a provisionally certified shift supervisor who is scheduled to take the full certification exam.

(4) If one of the persons listed in 340-025-0980230-0330(3) must leave the affected facility during their operating shift, a provisionally certified control room operator who is onsite at the affected facility may fulfill the requirement in 340-025-0980230-0330(3).

(5) All chief facility operators, shift supervisors, and control room operators at affected facilities located within a small or large municipal waste combustor plant must complete the EPA or State municipal waste combustor operator training course no later than the compliance date specified in OAR 340-025-1010230-0360 except as provided in (a) and (b) of this section.

(a) The requirement specified in OAR 340-025-0980230-0330(5) does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers or other State-approved certification program on or before June 19, 1997.

(b) The owner or operator may request that the Department waive the requirement specified in OAR 340-025-0980230-0330(5) for chief operators, shift supervisors, and control operators who have obtained provisional certification from the American Society of Mechanical Engineers or other State-approved certification program on or before June 19, 1997.

(6) The owner or operator of an affected facility located within a small or large municipal waste combustor plant shall develop and update on a yearly basis a site-specific operating manual that, at a minimum, addresses the elements of municipal waste combustor unit operation specified below:

- (a) A summary of the applicable standards under OAR 340-025-0950230-0300 through 340-025-1010230-0360;
- (b) A description of basic combustion theory applicable to a municipal waste combustor unit;
- (c) Procedures for receiving, handling, and feeding municipal solid waste;
- (d) Municipal waste combustor unit startup, shutdown, and malfunction procedures;
- (e) Procedures for maintaining proper combustion air supply levels;
- (f) Procedures for operating the municipal waste combustor unit within the standards established under OAR 340-025-0950230-0300 through 340-025-1010230-0360;
- (g) Procedures for responding to periodic upset or off-specification conditions;
- (h) Procedures for minimizing particulate matter carryover;
- (i) Procedures for handling ash;
- (j) Procedures for monitoring municipal waste combustor unit emissions; and
- (k) Reporting and recordkeeping procedures.

(7) The owner or operator of an affected facility located within a small or large municipal waste combustor plant shall establish a training program to review the operating manual according to the schedule specified in (a) and (b) of this section with each person who has responsibilities affecting the operation of an affected facility including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

(a) Each person specified in OAR 340-025-0980230-0330(7) shall undergo initial training no later than the date specified in (a)(A) or (B), whichever is later.

- (A) The date prior to the day the person assumes responsibilities affecting municipal waste combustor unit operation; or
 - (B) June 19, 1998.
- (b) Annually, following the initial review.

(8) The operating manual required by OAR 340-025-0980230-0330(6) shall be kept in a readily accessible location for all persons required to undergo training under paragraph OAR 340-025-0980230-0330(7). The operating manual and records of training shall be available for inspection by the EPA or the Department upon request.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; renumbered from OAR 340-025-0980.

340-025-0990230-0340

Monitoring and Testing

(1) The standards under OAR 340-025-0960230-0310 apply at all times except during periods of startup, shutdown, or malfunction. Duration of startup, shutdown, or malfunction periods are limited to 3 hours per occurrence.

(a) The startup period commences when the affected facility begins the continuous burning of municipal solid waste and does not include any warmup period when the affected facility is combusting fossil fuel or other nonmunicipal solid waste fuel, and no municipal solid waste is being fed to the combustor.

(b) Continuous burning is the continuous, semicontinuous, or batch feeding of municipal solid waste for purposes of waste disposal, energy production, or providing heat to the combustion system in preparation for waste disposal or energy production. The use of municipal solid waste solely to provide thermal protection of the grate or hearth during the startup period when municipal solid waste is not being fed to the grate is not considered to be continuous burning.

(2) The owner or operator of a small or large municipal waste combustor plant shall install, calibrate, maintain, and operate a continuous emission monitoring system and record the output of the system for measuring the oxygen or carbon dioxide content of the flue gas at each location where carbon monoxide, sulfur dioxide, or nitrogen oxides emissions are monitored and shall comply with test procedures and test methods specified below.

- (a) The span value of the oxygen (or carbon dioxide) monitor shall be 25 percent oxygen (or carbon dioxide).
- (b) The monitor shall be installed, evaluated, and operated in accordance with **40 CFR 60.13**.

(c) The monitor shall conform to **Performance Specification 3** in **appendix B** of **40 CFR Part 60** except for **section 2.3** (relative accuracy requirement).

(d) The quality assurance procedures of **Appendix F** of this part except for **section 5.1.1** (relative accuracy test audit) shall apply to the monitor.

(e) If carbon dioxide is selected for use in diluent corrections, the relationship between oxygen and carbon dioxide levels shall be established during the first performance test after December 31, 1997, but not later than June 8, 1998, according to the following procedures and methods. This relationship may be reestablished during subsequent performance compliance tests.

(A) The emission rate correction factor and the integrated bag sampling and analysis procedure of **EPA Reference Method 3B** shall be used to determine the oxygen concentration at the same location as the carbon dioxide monitor.

(B) Samples shall be taken for at least 30 minutes in each hour.

(C) Each sample shall represent a 1-hour average.

(D) A minimum of three runs shall be performed.

(f) The relationship between carbon dioxide and oxygen concentrations that is established in accordance with (e) of this section shall be submitted to the Department as part of the performance test report for the first test conducted after December 31, 1997.

(3) The procedures and test methods specified below shall be used to determine compliance with the emission limits for particulate matter and opacity.

(a) **EPA Reference Method 1** shall be used to select sampling site and number of traverse points.

(b) **EPA Reference Method 3** or **3A** shall be used for gas analysis.

(c) **EPA Reference Method 5** shall be used for determining compliance with the particulate matter emission limit. The minimum sample volume shall be 1.7 cubic meters (60 cubic feet). The probe and filter holder heating systems in the sample train shall be set to provide a gas temperature no less than or greater than $160 \pm 14^{\circ}\text{C}$ ($320 \pm 25^{\circ}\text{F}$). An oxygen or carbon dioxide measurement shall be obtained simultaneously with each **Method 5** run.

(d) An owner or operator may request that compliance with the particulate matter emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in OAR 340-~~025-0990~~230-0340(2)(e).

(e) All performance tests shall consist of at least three test runs conducted under representative full load operating conditions and at least two of the test runs must be valid. The average of the particulate matter emission concentrations from all valid test runs is used to determine compliance.

(f) **EPA Method 9** shall be used for determining compliance with the opacity limit except as provided under **40 CFR 60.11(e)**.

(g) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a continuous opacity monitoring system for measuring opacity and shall follow the methods and procedures specified by **40 CFR 60.13**.

(A) The output of the continuous opacity monitoring system shall be recorded on a 6-minute average basis.

(B) The continuous opacity monitoring system shall conform to **Performance Specification 1** in **appendix B** of **40 CFR Part 60**.

(h) For each affected facility located within a large municipal waste combustor plant, the owner or operator shall conduct a performance test for particulate matter on an annual basis (no more than 12 calendar months following the previous performance test).

(i) For each affected facility located within a small municipal waste combustor plant, the owner or operator shall conduct a performance test for particulate matter on an annual basis (no more than 12 calendar months following the previous performance test). If all performance tests over a 3-year period indicate compliance with the particulate matter emission limit, the owner or operator may elect not to conduct a performance test for the subsequent 2 years. At a minimum, a performance test for particulate matter shall be conducted every third year (no more than 36 months following the previous performance test) at a small municipal waste combustor plant. If a performance test conducted every third year indicates compliance with the particulate matter emission limit, the owner or operator may elect not to conduct a performance test for an additional 2 years. If any performance test indicates noncompliance with the particulate matter emission limit, performance tests shall be required annually until all annual performance tests over a 3-year period indicate compliance with the particulate matter emission limit.

(j) For each affected facility located within a small or large municipal waste combustor plant, the owner or operator shall conduct a performance test for opacity on an annual basis (no more than 12 calendar months following the previous performance test) using the test method specified in paragraph (3)(f) of this section.

(4) The procedures and test methods specified below shall be used to determine compliance with the emission limits for cadmium, lead, and mercury.

(a) The procedures and test methods specified below shall be used to determine compliance with the emission limits for cadmium and lead.

(A) **EPA Reference Method 1** shall be used for determining the location and number of sampling points.

(B) **EPA Reference Method 3** or **3A** shall be used for flue gas analysis.

(C) **EPA Reference Method 29** shall be used for determining compliance with the cadmium and lead emission limits. The minimum sample volume shall be 1.7 dscm (60 dscf).

(D) An oxygen or carbon dioxide measurement shall be obtained simultaneously with each **Method 29** test run for cadmium and lead.

(E) An owner or operator may request that compliance with the cadmium or lead emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in OAR 340-025-0990230-0340(2)(e).

(F) All performance tests must consist of at least three test runs conducted under representative full load operating conditions and at least two of the test runs must be valid. The average of the cadmium and lead emission concentrations from all valid test runs is used to determine compliance.

(G) For each affected facility located within a large municipal waste combustor plant, the owner or operator shall conduct a performance test for compliance with the emission limits for cadmium and lead on an annual basis (no more than 12 calendar months following the previous performance test), thereafter.

(H) For each affected facility located within a small municipal waste combustor plant, the owner or operator shall conduct a performance test for cadmium emissions and on an annual basis (no more than 12 calendar months following the previous performance test). If all performance tests over a 3-year period indicate compliance with the cadmium emission limit, the owner or operator may elect not to conduct a performance test for the subsequent 2 years. At a minimum, a performance test for cadmium shall be conducted every third year (no more than 36 months following the previous performance test) at a small municipal waste combustor plant. If a performance test conducted every third year indicates compliance with the cadmium emission limit, the owner or operator may elect not to conduct a performance test for an additional 2 years. If any performance test indicates noncompliance with the cadmium emission limit, performance tests shall be conducted annually until all annual performance tests over a 3-year period indicate compliance with the cadmium emission limit.

(I) For each affected facility located within a small municipal waste combustor plant, the owner or operator shall conduct a performance test for lead emissions on an annual basis (no more than 12 calendar months following the previous performance test). If all performance tests over a 3-year period indicate compliance with the lead emission limit, the owner or operator may elect not to conduct a performance test for the subsequent 2 years. At a minimum, a performance test for lead shall be conducted every third year (no more than 36 months following the previous performance test) at a small municipal waste combustor plant. If a performance test conducted every third year indicates compliance with the lead emission limit, the owner or operator may elect not to conduct a performance test for an additional 2 years. If any performance test indicates noncompliance with the lead emission limit, performance tests shall be conducted annually until all annual performance tests over a 3-year period indicate compliance with the lead emission limit.

(b) The procedures and test methods specified below shall be used to determine compliance with the mercury emission limit.

(A) **EPA Reference Method 1** shall be used for determining the location and number of sampling points.

(B) **EPA Reference Method 3** or **3A** shall be used for flue gas analysis.

(C) **EPA Reference Method 29** shall be used to determine the mercury emission concentration. The minimum sample volume when using **Method 29** for mercury shall be 1.7 cubic meters (60 cubic feet).

(D) An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each **Method 29** test run for mercury.

(E) The percent reduction in the potential mercury emissions (%P_{Hg}) is computed using equation 1:

$$(\%P_{Hg}) = (E_i - E_o \div E_i) \times 100$$

where:

%PHg = percent reduction of the potential mercury emissions achieved.

E_i = potential mercury emission concentration measured at the control device inlet, corrected to 7 percent oxygen (dry basis).

E_o = controlled mercury emission concentration measured at the mercury control device outlet, corrected to 7 percent oxygen (dry basis).

(F) All performance tests must consist of at least three test runs conducted under representative full load operating conditions and at least two of the test runs must be valid. The average of the mercury emission concentrations from all valid test runs is used to determine compliance.

(G) An owner or operator may request that compliance with the mercury emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in OAR 340-025-0990230-0340(2)(e).

(H) The owner or operator of an affected facility located within a large municipal waste combustor plant shall conduct a performance test for mercury emissions on an annual basis (no more than 12 calendar months from the previous performance test).

(I) For each affected facility located within a small municipal waste combustor plant, the owner or operator shall conduct a performance test for mercury emissions on an annual basis (no more than 12 calendar months following the previous performance test). If all three performance tests over a 3-year period indicate compliance with the mercury emission limit, the owner or operator may elect not to conduct a performance test for the subsequent 2 years. At a minimum, a performance test for mercury shall be conducted every third year (no more than 36 months following the previous performance test) at a small municipal waste combustor plant. If a performance test conducted every third year indicates compliance with the mercury emission limit, the owner or operator may elect not to conduct a performance test for an additional 2 years. If any performance test indicates noncompliance with the mercury emission limit, performance tests shall be conducted annually until all annual performance tests over a 3-year period indicate compliance with the mercury emission limit.

(J) The owner or operator of an affected facility where activated carbon injection is used to comply with the mercury emission limit shall follow the procedures specified in OAR 340-025-0990230-0340(12) for measuring and calculating carbon usage.

(5) The procedures and test methods specified below shall be used for determining compliance with the sulfur dioxide emission limit.

(a) Compliance with the sulfur dioxide emission limit shall be determined based on the 24-hour daily geometric average of the hourly arithmetic average emission concentrations using continuous emission monitoring system outlet data if compliance is based on an emission concentration, or continuous emission monitoring system inlet and outlet data if compliance is based on a percent reduction.

(b) **EPA Reference Method 19, section 4.3**, shall be used to calculate the daily geometric average sulfur dioxide emission concentration.

(c) **EPA Reference Method 19, section 5.4**, shall be used to determine the daily geometric average percent reduction in the potential sulfur dioxide emission concentration.

(d) An owner or operator may request that compliance with the sulfur dioxide emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in OAR 340-025-0990230-0340(2)(e).

(e) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring sulfur dioxide emissions discharged to the atmosphere and record the output of the system in accordance with **40 CFR 60.13**. If showing compliance with the percent reduction standards, the owner or operator shall also install, calibrate, maintain, and operate a continuous monitoring system for measuring the sulfur dioxide concentration at the inlet to the sulfur dioxide control device and record the output in accordance with **40 CFR 60.13**.

(f) At a minimum, valid continuous monitoring system hourly averages shall be obtained for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

(A) At least two data points, separated by at least 15 minutes, per hour shall be used to calculate each 1-hour arithmetic average.

(B) Each sulfur dioxide 1-hour arithmetic average shall be corrected to 7 percent oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

(g) The 1-hour arithmetic averages shall be expressed in parts per million corrected to 7 percent oxygen (dry basis) and used to calculate the 24-hour daily geometric average emission concentrations and daily geometric average emission percent reductions. The 1-hour arithmetic averages shall be calculated using the data points required under **40 CFR 60.13(e)(2)**.

(h) All valid continuous emission monitoring system data shall be used in calculating average emission concentrations and percent reductions even if the minimum continuous emission monitoring system data requirements are not met.

(i) The continuous emission monitoring system shall be operated according to **Performance Specification 2** in **appendix B of 40 CFR Part 60**.

(A) During each relative accuracy test run of the continuous emission monitoring system required by **Performance Specification 2** in **appendix B of 40 CFR Part 60**, sulfur dioxide and oxygen (or carbon dioxide) shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified as follows: For sulfur dioxide, **EPA Reference Method 6, 6A, or 6C** shall be used; and, for oxygen (or carbon dioxide), **EPA Reference Method 3A or 3B** shall be used.

(B) The span value of the continuous emissions monitoring system at the inlet to the sulfur dioxide control device shall be 125 percent of the maximum estimated hourly potential sulfur dioxide emissions of the municipal waste combustor unit. The span value of the continuous emission monitoring system at the outlet of the sulfur dioxide control device shall be 50 percent of the maximum estimated hourly potential sulfur dioxide emissions of the municipal waste combustor unit.

(j) Quarterly accuracy determinations and daily calibration tests shall be performed in accordance with **procedure 1** in **Appendix F of 40 CFR Part 60**.

(k) When sulfur dioxide emissions data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data shall be obtained by using other monitoring systems as approved by the Department or **EPA Reference Method 19** to provide, as necessary, valid emissions data for a minimum of 75 percent of the hours per day that the affected facility is operated and combusting municipal solid waste for 90 percent of the days per calendar quarter that the affected facility is operated and combusting municipal solid waste.

(6) The procedures and test methods specified below shall be used for determining compliance with the hydrogen chloride emission limit.

(a) **EPA Reference Method 26 or 26A**, as applicable, shall be used to determine the hydrogen chloride emission concentration. The minimum sampling time for **Method 26** shall be 1 hour.

(b) An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each **Method 26** test run for hydrogen chloride.

(c) The percent reduction in potential hydrogen chloride emissions (% P_{HCl}) is computed using equation 2:

$$(\%P_{HCl}) = (E_i - E_o \div E_i) \times 100$$

where:

%P_{HCl} = percent reduction of the potential hydrogen chloride emissions achieved.

E_i = potential hydrogen chloride emission concentration measured at the control device inlet, corrected to 7 percent oxygen (dry basis).

E_o = controlled hydrogen chloride emission concentration measured at the control device outlet, corrected to 7 percent oxygen (dry basis).

(d) An owner or operator may request that compliance with the hydrogen chloride emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in **OAR 340-025-0990230-0340(2)(e)**.

(e) All performance tests must consist of at least three test runs conducted under representative full load operating conditions and at least two of the test runs must be valid. The average of the hydrogen chloride emission concentrations from all valid test runs is used to determine compliance.

(f) The owner or operator of an affected facility located within a large municipal waste combustor plant shall conduct a performance test for hydrogen chloride emissions on an annual basis (no more than 12 calendar months following the previous performance test).

(g) The owner or operator of an affected facility located within a small municipal waste combustor plant shall conduct a performance test for hydrogen chloride emissions on an annual basis (no more than 12 calendar months following the previous performance test). If all performance tests over a 3-year period indicate compliance with the hydrogen chloride emission limit,

the owner or operator may elect not to conduct a performance test for the subsequent 2 years. At a minimum, a performance test for hydrogen chloride shall be conducted every third year (no more than 36 months following the previous performance test) at a small municipal waste combustor plant. If a performance test conducted every third year indicates compliance with the hydrogen chloride emission limit, the owner or operator may elect not to conduct a performance test for an additional 2 years. If any performance test indicates noncompliance with the hydrogen chloride emission limit, performance tests shall be conducted annually until all annual performance tests over a 3-year period indicate compliance with the hydrogen chloride emission limit.

(7) The procedures and test methods specified below shall be used to determine compliance with the limits for dioxin/furan emissions.

(a) **EPA Reference Method 1** shall be used for determining the location and number of sampling points.

(b) **EPA Reference Method 3** or **3A** shall be used for flue gas analysis.

(c) **EPA Reference Method 23** shall be used for determining the dioxin/furan emission concentration.

(A) The minimum sample time shall be 4 hours per test run.

(B) An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each **Method 23** test run for dioxins/furans.

(d) The owner or operator of an affected facility located within small and large municipal waste combustor plants shall conduct performance tests for dioxin/furan emissions according to one of the following schedules:

(A) For affected facilities located within small and large municipal waste combustor plants, performance tests shall be conducted on an annual basis (no more than 12 calendar months following the previous performance test.)

(B) For affected facilities located within small municipal waste combustor plants where all performance tests for an affected facility over a 3-year period indicate compliance with the dioxin/furan emission limit, the owner or operator may elect not to conduct a performance test for the subsequent 2 years for that affected facility. At a minimum, a performance test for dioxin/furan emissions shall be conducted every third year (no more than 36 months following the previous performance test) for each affected facility. If a performance test conducted every third year indicates compliance with the dioxin/furan emission limit, the owner or operator may elect not to conduct a performance test on the affected facility for an additional 2 years. If any performance test indicates noncompliance with the dioxin/furan emission limit, performance tests shall be conducted annually until all annual performance tests for the affected facility over a 3-year period indicate compliance with the dioxin/furan emission limit.

(C) For affected facilities located within large municipal waste combustor plants where all performance tests for all affected facilities over a 2-year period indicate that dioxin/furan emissions are less than or equal to 15 nanograms per dry standard cubic meter (total mass) for all affected facilities located within a municipal waste combustor plant, the owner or operator of the municipal waste combustor plant may elect to conduct annual performance tests for one affected facility (i.e., unit) per year at the municipal waste combustor plant. At a minimum, a performance test for dioxin/furan emissions shall be conducted annually (no more than 12 months following the previous performance test) for one affected facility at the municipal waste combustor plant. Each year a different affected facility at the municipal waste combustor plant shall be tested, and the affected facilities at the plant shall be tested in sequence (e.g., unit 1, unit 2, unit 3, as applicable). If each annual performance test continues to indicate a dioxin/furan emission level less than or equal to 15 nanograms per dry standard cubic meter (total mass), the owner or operator may continue conducting a performance test on only one affected facility per year. If any annual performance test indicates a dioxin/furan emission level greater than 15 nanograms per dry standard cubic meter (total mass), performance tests thereafter shall be conducted annually on all affected facilities at the plant until and unless all annual performance tests for all affected facilities at the plant over a 2-year period indicate a dioxin/furan emission level less than or equal to 15 nanograms per dry standard cubic meter (total mass).

(D) For affected facilities located within small municipal waste combustor plants where all performance tests for all affected facilities over a 2-year period indicate that dioxin/furan emissions are less than or equal to 30 nanograms per dry standard cubic meter (total mass) for all affected facilities located within a municipal waste combustor plant, the owner or operator of the municipal waste combustor plant may elect to conduct annual performance tests for one affected facility (i.e., unit) per year at the municipal waste combustor plant. At a minimum, a performance test for dioxin/furan emissions shall be conducted annually (no more than 12 months following the previous performance test) for one affected facility at the municipal waste combustor plant. Each year a different affected facility at the municipal waste combustor plant shall be tested, and the affected facilities at the plant shall be tested in sequence (e.g., unit 1, unit 2, unit 3, as applicable). If each annual performance test continues to indicate a dioxin/furan emission level less than or equal to 30 nanograms per dry standard cubic meter (total mass), the owner or operator may continue conducting a performance test on only one affected

facility per year. If any annual performance test indicates a dioxin/furan emission level greater than 30 nanograms per dry standard cubic meter (total mass), performance tests thereafter shall be conducted annually on all affected facilities at the plant until and unless all annual performance tests for all affected facilities at the plant over a 2-year period indicate a dioxin/furan emission level less than or equal to 30 nanograms per dry standard cubic meter (total mass).

(e) The owner or operator of an affected facility where activated carbon is used to comply with the dioxin/furan emission limits or the dioxin/furan emission level specified in OAR 340-~~025-0990~~230-0340(7)(d)(C) or (D) shall follow the procedures specified in OAR 340-~~025-0990~~230-0340(12) for measuring and calculating the carbon usage rate.

(f) An owner or operator may request that compliance with the dioxin/furan emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in OAR 340-~~025-0990~~230-0340(2)(e).

(g) All performance tests must consist of at least three test runs conducted under representative full load operating conditions and at least two of the test runs must be valid. The average of the dioxin/furan emission concentrations from all valid test runs is used to determine compliance.

(8) The procedures and test methods specified below shall be used to determine compliance with the nitrogen oxides emission limit for municipal waste combustors located at large municipal waste combustor plants (no nitrogen oxides performance tests are required for affected facilities located within small municipal waste combustor plants).

(a) Compliance with the nitrogen oxides emission limit shall be determined by using the continuous emission monitoring system specified in OAR 340-~~025-0990~~230-0340(8)(c) for measuring nitrogen oxides and calculating a 24-hour daily arithmetic average emission concentration using **EPA Reference Method 19, section 4.1**.

(b) An owner or operator may request that compliance with the nitrogen oxides emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in OAR 340-~~025-0990~~230-0340(2)(e).

(c) The owner or operator of an affected facility located within a large municipal waste combustor plant shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring nitrogen oxides discharged to the atmosphere, and record the output of the system in accordance with **40 CFR 60.13**.

(d) At a minimum, valid continuous emission monitoring system hourly averages shall be obtained for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

(A) At least 2 data points, separated by at least 15 minutes, per hour shall be used to calculate each 1-hour arithmetic average.

(B) Each nitrogen oxides 1-hour arithmetic average shall be corrected to 7 percent oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

(e) The 1-hour arithmetic averages shall be expressed in parts per million by volume corrected to 7 percent oxygen (dry basis) and used to calculate the 24-hour daily arithmetic average concentrations.

(f) All valid continuous emission monitoring system data must be used in calculating emission averages even if the minimum continuous emission monitoring system data requirements are not met.

(g) The owner or operator shall operate the continuous emission monitoring system according to **Performance Specification 2 in Appendix B of 40 CFR Part 60** and shall follow the procedures and methods specified as follows:

(A) During each relative accuracy test run of the continuous emission monitoring system required by **Performance Specification 2 in Appendix B of 40 CFR Part 60**, nitrogen oxides and oxygen (or carbon dioxide) shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified as follows: For nitrogen oxides, **EPA Reference Methods 7, 7A, 7C, 7D, or 7E** shall be used; and, for oxygen (or carbon dioxide), **EPA Reference Method 3A or 3B** shall be used.

(B) The span value of the continuous emission monitoring system shall be 125 percent of the maximum estimated hourly potential nitrogen oxide emissions of the municipal waste combustor unit.

(h) Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with **procedure 1 in Appendix F of 40 CFR Part 60**.

(i) When nitrogen oxides continuous emissions data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data shall be obtained using other monitoring systems as approved by the Department or **EPA Reference Method 19** to provide, as necessary, valid emissions data for a minimum of 75 percent of the hours per day for 90 percent of the days per calendar quarter the unit is operated and combusting municipal solid waste.

(9) The procedures specified below shall be used for determining compliance with the operating requirements under OAR ~~340-025-0970~~230-0320.

(a) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring carbon monoxide at the combustor outlet and record the output of the system in accordance with **40 CFR 60.13** and the following:

(A) Compliance with the carbon monoxide emission limits shall be determined using a 4-hour block arithmetic average for all types of affected facilities.

(B) The continuous emission monitoring system shall be operated according to **Performance Specification 4A** in **40 CFR Part 60 Appendix B**.

(C) During each relative accuracy test run of the continuous emission monitoring system required by **Performance Specification 4A** in **Appendix B** of **40 CFR Part 60**, carbon monoxide and oxygen (or carbon dioxide) shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified as follows: For carbon monoxide, **EPA Reference Methods 10, 10A, or 10B** shall be used; and, for oxygen (or carbon dioxide), **EPA Reference Method 3A or 3B** shall be used.

(D) The span value of the continuous emission monitoring system shall be 125 percent of the maximum estimated hourly potential carbon monoxide emissions of the municipal waste combustor unit.

(E) The 4-hour block averages shall be calculated from 1-hour arithmetic averages expressed in parts per million by volume corrected to 7 percent oxygen (dry basis). The 1-hour arithmetic averages shall be calculated using the data points generated by the continuous emission monitoring system. At least two data points, separated by at least 15 minutes, per hour shall be used to calculate each 1-hour arithmetic average.

(F) An owner or operator may request that compliance with the carbon monoxide emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in OAR ~~340-025-0990~~230-0340(2)(e).

(G) At a minimum, valid continuous emission monitoring system hourly averages shall be obtained for 75 percent of the hours per day for 90 percent of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

(H) All valid continuous emission monitoring system data must be used in calculating carbon monoxide emission even if the minimum data requirements are not met.

(I) Quarterly accuracy determinations and daily calibration drift tests for the carbon monoxide continuous emission monitoring system shall be performed in accordance with **procedure 1** in **Appendix F** of **40 CFR Part 60**.

(b) The procedures specified below shall be used to determine compliance with load level requirements under OAR ~~340-025-0970~~230-0320.

(A) The owner or operator of an affected facility with steam generation capability shall install, calibrate, maintain, and operate a steam flow meter or a feedwater flow meter; measure steam (or feedwater) flow in kilograms per hour (or pounds per hour) on a continuous basis; and record the output of the monitor. Steam (or feedwater) flow shall be calculated in 4-hour block arithmetic averages.

(B) The method included in the "**American Society of Mechanical Engineers Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1 -- 1964 (R1991)**" **section 4** (incorporated by reference, see **40 CFR 40 CFR 60.17**) shall be used for calculating the steam (or feedwater) flow. The recommendations in "**American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971)**," **chapter 4** (incorporated by reference -- see **40 CFR 40 CFR 60.17**) shall be followed for design, construction, installation, calibration, and use of nozzles and orifices except as specified below:

(i) Measurement devices such as flow nozzles and orifices are not required to be recalibrated after they are installed.

(ii) All signal conversion elements associated with steam (or feedwater flow) measurements must be calibrated according to the manufacturer's instructions before each dioxin/furan performance test, and at least once per year.

(C) The owner or operator of an affected facility without steam generation capability is not required to monitor unit load.

(D) The maximum demonstrated municipal waste combustor unit load must be the highest 4-hour arithmetic average load achieved during four consecutive hours during the most recent test during which compliance with the dioxin/furan emission limit was achieved.

(c) To determine compliance with the maximum particulate matter control device temperature requirements, the owner or operator of an affected facility shall install, calibrate, maintain, and operate a device for measuring on a continuous basis the temperature of the flue gas stream at the inlet to each particulate matter control device utilized by the affected facility.

(A) Temperature shall be calculated in 4-hour block arithmetic averages.

(B) For each particulate matter control device employed at the affected facility, the maximum demonstrated particulate matter control device temperature shall be the highest 4-hour arithmetic average temperature achieved at the particulate matter control device inlet during four consecutive hours during the most recent test during which compliance with the dioxin/furan limit was achieved.

(d) At a minimum, valid continuous load level and control device inlet temperature monitoring system hourly averages shall be obtained for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

(A) At least two data points, separated by at least 15 minutes, per hour shall be used to calculate each 1-hour arithmetic average.

(B) All valid continuous emission monitoring system data must be used in calculating the parameters specified under OAR 340-~~025-0990~~230-0340(9) even if the minimum data requirements are not met. When carbon monoxide continuous emission data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data shall be obtained using other monitoring systems as approved by the Department or **EPA Reference Method 10** to provide, as necessary, the minimum valid emission data.

(10) The procedures specified below shall be used for calculating municipal waste combustor unit capacity as defined under ~~OAR 340-025-0557(3)(ff)~~ **40 CFR 61 subpart Eb** as adopted under OAR 340-238-0060.

(a) For municipal waste combustor units capable of combusting municipal solid waste continuously for a 24-hour period, municipal waste combustor unit capacity, in megagrams per day of municipal solid waste combusted, shall be calculated based on 24 hours of operation at the maximum charging rate. The maximum charging rate shall be determined by one of the following procedures, as applicable:

(A) For combustors that are designed based on heat capacity, the maximum charging rate shall be calculated based on the maximum design heat input capacity of the unit and a heating value of 10,500 kilojoules per kilogram.

(B) For combustors that are not designed based on heat capacity, the maximum charging rate shall be the maximum design charging rate.

(b) For batch feed municipal waste combustor units, municipal waste combustor unit capacity, in megagrams per day of municipal solid waste combusted, shall be calculated as the maximum design amount of municipal solid waste that can be charged per batch multiplied by the maximum number of batches that could be processed in a 24-hour period. The maximum number of batches that could be processed in a 24-hour period is calculated as 24 hours divided by the design number of hours required to process one batch of municipal solid waste, and may include fractional batches (e.g., if one batch requires 16 hours, then 24/16, or 1.5 batches, could be combusted in a 24-hour period). For batch combustors that are designed based on heat capacity, the design heating value of 10,500 kilojoules per kilogram for all municipal solid waste shall be used in calculating the municipal waste combustor unit capacity in megagrams per day of municipal solid waste.

(11) The procedures specified below shall be used for determining compliance with the fugitive ash emission limit.

(a) **EPA Reference Method 22** shall be used for determining compliance with the fugitive ash emission limit. The minimum observation time shall be a series of three 1-hour observations. The observation period shall include times when the facility is transferring ash from the municipal waste combustor unit to the area where ash is stored or loaded into containers or trucks.

(b) The average duration of visible emissions per hour shall be calculated from the three 1-hour observations. The average shall be used to determine compliance.

(c) The owner or operator of an affected facility shall conduct a performance test for fugitive ash emissions on an annual basis (no more than 12 months following previous performance tests).

(12) The owner or operator of an affected facility where activated carbon injection is used to comply with the mercury emission limit, or the dioxin/furan emission limits, or the dioxin/furan emission level specified in OAR 340-~~025-0990~~230-0340(7)(d)(C) or (D) shall follow the procedures specified below:

(a) During any performance test for dioxins/furans and mercury, as applicable, the owner or operator shall estimate an average carbon mass feed rate based on carbon injection system operating parameters such as the screw feeder speed, hopper volume, hopper refill frequency, or other parameters appropriate to the feed system being employed, as specified below:

(A) An average carbon mass feed rate in kilograms per hour or pounds per hour shall be estimated during each performance test for mercury emissions.

(B) An average carbon mass feed rate in kilograms per hour or pounds per hour shall be estimated during each performance test for dioxin/furan emissions.

(b) During operation of the affected facility, the carbon injection system operating parameter(s) that are the primary indicator(s) of the carbon mass feed rate (e.g., screw feeder setting) must equal or exceed the level(s) documented during the performance tests specified under (a)(A) or (B) of this section.

(c) The owner or operator shall estimate the total carbon usage of the plant (kilograms or pounds) for each calendar quarter by two independent methods, according to the procedures specified below:

(A) The weight of carbon delivered to the plant.

(B) Estimate the average carbon mass feed rate in kilograms per hour or pounds per hour for each hour of operation for each affected facility based on the parameters specified under (a) of this section, and sum the results for all affected facilities at the plant for the total number of hours of operation during the calendar quarter.

(13) Continuous monitoring for opacity, sulfur dioxide, nitrogen oxides, carbon monoxide, and diluent gases (oxygen or carbon dioxide) shall be conducted in accordance with the Department's Continuous Monitoring Manual and the specific requirements of this rule. If at any time there is a conflict between the Department's Continuous **Monitoring Manual** and the federal requirements (**40 CFR 60.13, Appendix B, and Appendix F**), the federal requirements shall govern.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; renumbered from OAR 340-025-0990.

340-025-1000-230-0350

Recordkeeping and Reporting

(1) The owner or operator of an affected facility located within a small or large municipal waste combustor plant and subject to the standards under OAR ~~340-025-0950~~230-0300 through ~~340-025-1010~~230-0360 shall maintain records of the information specified below, as applicable, for each affected facility for a period of at least 5 years. The information shall be available for submittal to the Department or for review onsite by an inspector.

(a) The calendar date of each record.

(b) The following emission concentrations and parameters measured using continuous monitoring systems:

(A) All 6-minute average opacity levels.

(B) All 1-hour average sulfur dioxide emission concentrations.

(C) All 1-hour average nitrogen oxides emission concentrations (large municipal waste combustor plants only).

(D) All 1-hour average carbon monoxide emission concentrations, municipal waste combustor unit load measurements (if applicable), and particulate matter control device inlet temperatures.

(E) All 24-hour daily geometric average sulfur dioxide emission concentrations and all 24-hour daily geometric average percent reductions in sulfur dioxide emissions.

(F) All 24-hour daily arithmetic average nitrogen oxides emission concentrations (large municipal waste combustor plants only).

(G) All 4-hour block arithmetic average carbon monoxide emission concentrations.

(H) All 4-hour block arithmetic average municipal waste combustor unit load levels (if applicable) and particulate matter control device inlet temperatures.

(c) Identification of the calendar dates when any of the average opacity levels, emission concentrations, percent reductions, or operating parameters recorded under OAR ~~340-025-1000~~230-0350(b) are above the applicable limits, with reasons for such exceedances and a description of corrective actions taken.

(d) For affected facilities that apply activated carbon for mercury or dioxin/furan control, the records specified below:

(A) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated during each mercury emissions performance test, with supporting calculations.

(B) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated during each dioxin/furan emissions performance test, with supporting calculations.

(C) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated for each hour of operation, with supporting calculations.

(D) The total carbon usage for each calendar quarter estimated, with supporting calculations.

(E) Carbon injection system operating parameter data for the parameter(s) that are the primary indicator(s) of carbon feed rate (e.g., screw feeder speed).

(e) Identification of the calendar dates for which the minimum number of hours of any of the data specified below have not been obtained including reasons for not obtaining sufficient data and a description of corrective actions taken.

- (A) Sulfur dioxide emissions data;
- (B) Nitrogen oxides emissions data (large municipal waste combustor plants only);
- (C) Carbon monoxide emissions data;
- (D) Municipal waste combustor unit load data; and
- (E) Particulate matter control device temperature data.

(F) For affected facilities that apply activated carbon for mercury or dioxin/furan control, carbon usage and carbon injection system operating parameter data.

(f) Identification of each occurrence that sulfur dioxide emissions data, nitrogen oxides emissions data (large municipal waste combustors only), or operational data (i.e., carbon monoxide emissions, unit load, and particulate matter control device temperature) have been excluded from the calculation of average emission concentrations or parameters, and the reasons for excluding the data.

(g) The results of daily drift tests and quarterly accuracy determinations for sulfur dioxide, nitrogen oxides (large municipal waste combustors only), and carbon monoxide continuous emission monitoring systems, as required by **40 CFR 60.13** and **Procedure 1 of 40 CFR Appendix F**.

(h) The test reports documenting the results of all performance tests conducted to determine compliance with the particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission limits, including the oxygen/carbon dioxide relationship (if applicable according to OAR 340-025-0990230-0340(2)(e)) be recorded along with supporting calculations and the following information:

(A) For the first dioxin/furan performance test conducted after December 31, 1997 and all subsequent dioxin/furan performance tests, the maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device temperature (for each particulate matter control device); and

(B) For affected facilities that apply carbon for mercury or dioxin/furan control, the average carbon injection rate during the first mercury or dioxin/furan performance test conducted after December 31, 1997 and all subsequent mercury or dioxin/furan performance tests.

(i) Training records as specified below:

(A) Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have been provisionally certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program, including the dates of initial and renewal certifications and documentation of current certification.

(B) Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have been fully certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program, including the dates of initial and renewal certifications and documentation of current certification.

(C) Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have completed the EPA municipal waste combustor operator training course or a State-approved equivalent course, including documentation of training completion.

(D) Records showing the names of persons who have completed a review of the operating manual, including the date of the initial review and subsequent annual reviews.

(j) For affected facilities that apply activated carbon for mercury or dioxin/furan control:

(A) Identification of the calendar dates when the average carbon mass feed rates were less than either of the hourly carbon feed rates estimated during performance tests for mercury or dioxin/furan emissions with reasons for such feed rates and a description of corrective actions taken.

(B) Identification of the calendar dates when the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate (e.g., screw feeder speed) are below the level(s) estimated during the performance tests, with reasons for such occurrences and a description of corrective actions taken.

(k) For large municipal waste combustor plants installing additional controls in accordance with the compliance schedule in OAR 340-025-1010230-0360(2), records of semi-annual progress reports.

(2) The owner or operator of an affected facility located within a small or large municipal waste combustor plant shall submit the following information in a performance test report within 60 days following the completion of each performance test:

(a) The test report documenting the performance test recorded under paragraph (1)(h) of this rule for particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, fugitive ash emissions;

(b) The oxygen/carbon dioxide relationship established in accordance with OAR 340-~~025-0990~~230-0340(2)(e), if applicable;

(c) Data as recorded under paragraphs (1)(b)(A) and (1)(b)(E) through (1)(b)(H) of this rule for three consecutive days coinciding with each performance test;

(d) Unless previously submitted, the performance evaluation of the continuous emission monitoring systems using the applicable performance specifications in **40 CFR Appendix B**;

(e) The maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device inlet temperature(s) established during the dioxin/furan performance test;

(f) For affected facilities that apply activated carbon injection for mercury control, the owner or operator shall submit the average carbon mass feed rate recorded during the mercury performance test; and.

(g) For affected facilities that apply activated carbon injection for dioxin/furan control, the owner or operator shall submit the average carbon mass feed rate recorded during the dioxin/furan performance test.

(3) The owner or operator of an affected facility located within a small or large municipal waste combustor plant shall submit semi-annual reports including the following information, as applicable, no later than July 30 for the first six months of each calendar year and February 1 for the second six months of each calendar year.

(a) A summary of data collected for all pollutants and parameters regulated under this rule, which includes the following information:

(A) A list of the particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission levels achieved during any performance tests conducted during the reporting period.

(B) A list of the highest emission level recorded for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, and particulate matter control device inlet temperature recorded during the reporting period.

(C) List the highest opacity level measured and recorded during the reporting period.

(D) The total number of days that the minimum number of hours of data for opacity, sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load, and particulate matter control device temperature data were not obtained based on the data recorded during the reporting period.

(E) The total number of hours that data for opacity, sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load, and particulate matter control device temperature were excluded from the calculation of average emission concentrations or parameters based on the data recorded during the reporting period.

(b) The summary of data reported under OAR 340-~~025-1000~~230-0350(3)(a) shall also provide the types of data specified in OAR 340-~~025-1000~~230-0350(3)(a) for the calendar year preceding the year being reported, in order to provide the Department with a summary of the performance of the affected facility over a 2-year period.

(c) The summary of data including the information specified in OAR 340-~~025-1000~~230-0350(3)(a) and (b) shall highlight any emission or parameter levels that did not achieve the emission or parameter limits specified by OAR 340-~~025-0960~~230-0310 through 340-025-0970230-0320.

(d) A notification of intent to begin the reduced dioxin/furan performance testing schedule specified in OAR 340-~~025-0990~~230-0340(7)(d)(C) or (D) during the following calendar year.

(4) The owner or operator of an affected facility located within a small or large municipal waste combustor plant shall submit a semiannual report that includes the following information for any recorded pollutant or parameter that does not comply with the pollutant or parameter limit by July 30 for the first six months of each calendar year and February 1 for the second six months of each calendar year.

(a) The semiannual report shall include information recorded under (1)(c) of this rule for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, particulate matter control device inlet temperature, and opacity.

(b) For each date recorded and reported, the semiannual report shall include the sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, particulate matter control device inlet temperature, or opacity data, as applicable and as recorded by (1)(b)(A) and (E) through (H).

(c) If the test reports recorded under (1)(h) document any particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission levels that were above the applicable pollutant limits, the semiannual report shall include a copy of the emission levels and the corrective actions taken.

(d) The semiannual report shall include the information recorded under (1)(j)(B) for the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate.

(e) For each operating date reported under (4)(d), the semiannual report shall include the carbon feed rate data recorded under (1)(d)(C).

(5) All reports specified under OAR ~~340-025-1000~~230-0350(2), (3), and (4) shall be submitted as a paper copy, postmarked on or before the submittal dates specified, and maintained onsite as a paper copy for a period of 5 years.

(6) All records specified under OAR ~~340-025-1000~~230-0350(1) shall be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the Department.

(7) If an owner or operator would prefer to select a different annual or semiannual date for submitting the periodic reports, then the dates may be changed in an Oregon Title V Operating Permit by mutual agreement between the owner or operator and the Department.

(8) For large municipal waste combustor plants installing additional controls in accordance with OAR ~~340-025-1010~~230-0360(2), the owner or operator shall submit to the Department semi-annual progress reports on July 30 for the first six months of each calendar year and February 1 for the second six months of each calendar year. The first report shall be submitted by July 30, 1997.

(9) The owner or operator of a small or large municipal waste combustor plant subject to OAR ~~340-025-0950~~230-0300 through ~~340-025-1010~~230-0360 shall maintain records of and submit the following information with any Notice of Construction required by OAR ~~340-025-1010~~230-0360(2)(c) and OAR ~~340-028-0800~~210-0200 through ~~340-028-0970~~210-0220 or Notice of Approval required by OAR ~~340-028-2270~~218-0190:

- (a) Intent to construct;
- (b) Planned initial startup date;
- (c) The types of fuels that the owner or operator plans to combust in the municipal waste combustor; and
- (d) The municipal waste combustor capacity, municipal waste combustor plant capacity, and supporting capacity calculations prepared in accordance with OAR ~~340-025-0990~~230-0340(10).

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; renumbered from OAR 340-025-1000.

~~340-025-1010~~230-0360

Compliance Schedule

(1) Emissions standards and operating practices.

(a) For municipal waste combustor units located within a small municipal waste combustor plant, the emissions standards of OAR ~~340-025-0960~~230-0310 and OAR ~~0970-340-230-0320 are applicable as of December 31, 1997.~~

(b) For municipal waste combustor units located within a large municipal waste combustor plant:

(A) The opacity, particulate matter, cadmium, lead, sulfur dioxide, hydrogen chloride, dioxin/furans, fugitive ash, carbon monoxide emissions standards, and the unit load level, particulate matter control device inlet temperature parameter standards specified in OAR ~~340-025-0960~~230-0310 through ~~340-025-0970~~230-0320 are applicable as of December 31, 1997; and

(B) the nitrogen oxides and mercury emissions standards and carbon injection rate (if applicable) parameter standards are applicable as of June 19, 1998 unless the compliance schedule specified below is implemented and followed to completion.

(2) Large municipal waste combustor plant compliance schedule for mercury and nitrogen oxides emissions standards and carbon injection rate (if applicable) parameter standards.

(a) By no later than December 31, 1996, the owner or operator shall obtain services of an architectural and engineering firm regarding the air pollution control device(s);

(b) By no later than March 31, 1997, the owner or operator shall obtain design drawings of the air pollution control device(s);

(c) By no later than June 30, 1997, the owner or operator shall submit a Notice of Construction application to the Department in accordance with OAR ~~340-028-0800~~210-0200 through ~~340-025-0970~~210-0220;

(d) By no later than December 31, 1997, the owner or operator shall order the air pollution control equipment;

(e) By no later than December 31, 1998, the owner or operator shall obtain the major components of the air pollution control device(s);

(f) By no later than March 31, 1999, the owner or operator shall initiate installation of the pollution control device(s);

(g) By no later than March 31, 2000, the owner or operator shall start up the pollution control device(s);

(h) By no later than June 19, 2000, the owner or operator shall conduct the initial performance test for mercury and nitrogen oxides emissions and carbon injection (if applicable) parameter standards.

(3) Operator training and certification.

(a) For small municipal waste combustor plants:

(A) All chief operators and shift supervisors shall obtain and maintain an ASME provisional certification or other State approved certification by no later than December 19, 1998.

(B) All chief operators and shift supervisors shall obtain and maintain a full ASME certification or other State approved certification or shall have scheduled a full certification exam with ASME or other State approved certification by December 19, 1998.

(C) After December 19, 1998, no owner or operator shall allow the operation of a municipal waste combustor unit unless one of the persons identified in 340-025-0980230-0330(3) and (4) is on duty and at the affected facility.

(D) By no later than June 19, 1998, all chief operators, shift supervisors, and control room operators shall have completed the EPA municipal waste combustor operator training course unless the person possesses and has maintained a full or provisional ASME training certification or other State approved certification.

(E) By no later than June 19, 1998, the owner operator shall have reviewed the site specific operating manual required by 340-025-0980230-0330(6) with all chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers. Following the initial review, the site specific operating manual shall be reviewed with all personnel specified above at least annually.

(F) By no later than June 19, 1998, the site specific operating manual shall be available in a readily accessible location for all persons required to undergo training.

(b) For large municipal waste combustor plants:

(A) All chief operators and shift supervisors shall obtain and maintain an ASME provisional certification by no later than June 19, 1998.

(B) All chief operators and shift supervisors shall obtain and maintain a full ASME certification or shall have scheduled a full certification exam with ASME by June 19, 1998.

(C) After June 19, 1998, no owner or operator shall allow the operation of a municipal waste combustor unit unless one of the persons identified in 340-025-0980230-0330(3) and (4) is on duty and at the affected facility.

(D) By no later than June 19, 1998, all chief operators, shift supervisors, and control room operators shall have completed the EPA municipal waste combustor operator training course unless the person possesses and has maintained a full or provisional ASME training certification.

(E) By no later than June 19, 1998, the owner operator shall have reviewed the site specific operating manual required by 340-025-0980230-0330(6) with all chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers. Following the initial review, site specific operating manual shall be reviewed with all personnel specified above at least annually.

(F) By no later than June 19, 1998, the site specific operating manual shall be available in a readily accessible location for all persons required to undergo training.

(4) Continuous monitoring.

(a) For small and large municipal waste combustor plants, the owner or operator of an affected municipal waste combustor unit shall have installed and certified continuous monitoring systems for opacity, diluent gas (oxygen or carbon dioxide), sulfur dioxide, nitrogen oxides (large municipal waste combustors only), carbon monoxide, municipal waste combustor unit load level (if applicable), and particulate matter control device inlet temperature in accordance with OAR 340-025-0960230-0310 and 340-025-0980230-0330 by December 31, 1997.

(b) The owner or operator of a municipal waste combustor unit that installs carbon injection for control of mercury or dioxin/furan emissions shall submit documentation that the carbon injection monitoring system is installed and operational with the first mercury or dioxin/furans performance test report.

(5) Testing.

(a) For small municipal waste combustor plants, an initial performance test shall be conducted in accordance with the procedures in OAR 340-025-0990230-0340 for particulate matter, opacity, cadmium, lead, mercury, hydrogen chloride, dioxin/furan emissions, and fugitive ash and the results submitted to the Department by no later than June 19, 1998.

(b) For large municipal waste combustor plants, an initial performance test shall be conducted in accordance with the procedures in OAR 340-025-0990230-0340 and the results submitted to the Department by the dates specified below:

(A) For particulate matter, opacity, cadmium, lead, dioxin/furans, hydrogen chloride, and fugitive ash, the performance test shall be conducted by no later than June 19, 1998.

(B) For mercury and nitrogen oxides, the performance test shall be conducted by no later than June 19, 2000.

(6) Recordkeeping and reporting. The recordkeeping and reporting requirements of this rule are effective beginning December 31, 1996.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; renumbered from OAR 340-025-1010.

Hospital/Medical/Infectious Waste Incinerators

340-025-0750230-0400

Hospital/Medical/Infectious Waste Incinerators that Commenced Construction Before June 20, 1996 Applicability and Exemptions

(1) Applicability. ~~This rule~~ OAR 340-230-0400 through 340-230-0410 applies to each individual hospital/medical/infectious waste incinerator for which construction is commenced on or before June 20, 1996 except as noted in section (2) of this rule.

(2) Exemptions:

(a) A combustor is not subject to this rule during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor:

(A) Notifies the Administrator of an exemption claim; and

(B) Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste and/or chemotherapeutic waste is burned.

(b) Any co-fired combustor is not subject to this rule if the owner or operator of the co-fired combustor:

(A) Notifies the Administrator of an exemption claim;

(B) Provides an estimate of the relative amounts of hospital waste, medical/infectious waste, and other fuels and wastes to be combusted; and

(C) Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.

(c) Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to this rule;

(d) Any combustor which meets the applicability requirements under Subpart Cb, Ea or Eb (relates to certain municipal waste combustors) is not subject to this rule;

(e) Any pyrolysis unit is not subject to this rule;

(f) Cement kilns firing hospital waste and/or medical/infectious waste are not subject to this rule;

(g) Physical or operational changes made to an existing hospital/medical/infectious waste incinerator solely for the purpose of complying with emission guidelines under Subpart Ce are not considered a modification and do not result in an existing hospital/medical/infectious waste incinerator becoming subject to this rule;

(h) Affected facilities subject to this rule are not subject to the requirements of **40 CFR Part 64.**

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 22-1998, f. & cert. ef. 10-21-98; renumbered from OAR 340-025-0750.

340-025-0750230-0410

Emission Limitations and Citations

~~(4) Requirements:~~

~~(a)~~ Except as provided in subsection (b) of this section, all HMIWI shall comply with the following requirements within one year after EPA approval of the State Plan:

~~(Aa)~~ Emission limits:

~~(iA)~~ **Small HMIWI:**

~~(Hi)~~ Particulate matter: 115 milligrams per dry standard cubic meter (mg/dscm);

~~(Hii)~~ Carbon monoxide: 40 parts per million by volume (ppm);

~~(Hiii)~~ Dioxins/furans: 125 nanograms per dry standard cubic meter (ng/dscm);

~~(Iv)~~ Hydrogen chloride: 100 ppm or 93% reduction;

~~(Vy)~~ Sulfur dioxide: 55 ppm;

~~(Vvi)~~ Nitrogen oxides: 250 ppm;

- (VII~~vii~~) Lead: 1.2 mg/dscm or 70% reduction;
- (VIII~~viii~~) Cadmium: 0.16 mg/dscm or 65% reduction;
- (IX~~ix~~) Mercury: 0.55 mg/dscm or 85% reduction.

(iiB) Medium HMIWI:

- (i) Particulate matter: 69 mg/dscm;
- (ii) Carbon monoxide: 40 ppm;
- (iii) Dioxins/furans: 125 ng/dscm;
- (IV~~iv~~) Hydrogen chloride: 100 ppm or 93% reduction;
- (V~~v~~) Sulfur dioxide: 55 ppm;
- (VI~~vi~~) Nitrogen oxides: 250 ppm;
- (VII~~vii~~) Lead: 1.2 mg/dscm or 70% reduction;
- (VIII~~viii~~) Cadmium: 0.16 mg/dscm or 65% reduction;
- (IX~~ix~~) Mercury: 0.55 mg/dscm or 85% reduction.

(iiC) Large HMIWI:

- (i) Particulate matter: 34 mg/dscm;
- (ii) Carbon monoxide: 40 ppm;
- (iii) Dioxins/furans: 125 ng/dscm;
- (IV~~iv~~) Hydrogen chloride: 100 ppm or 93% reduction;
- (V~~v~~) Sulfur dioxide: 55 ppm;
- (VI~~vi~~) Nitrogen oxides: 250 ppm;
- (VII~~vii~~) Lead: 1.2 mg/dscm or 70% reduction;
- (VIII~~viii~~) Cadmium: 0.16 mg/dscm or 65% reduction;
- (IX~~ix~~) Mercury: 0.55 mg/dscm or 85% reduction.

(Bb) Stack opacity requirements as provided in **40 CFR Section 60.52c(b) of Subpart Ec**;

(Cc) Operator training and qualification requirements as provided in **40 CFR Section 60.53c of Subpart Ec**;

(Dd) Waste management plan as provided in **40 CFR Section 60.55c of Subpart Ec**;

(Ee) Compliance and performance testing as provided in **40 CFR Section 60.56c of Subpart Ec** excluding the fugitive emissions testing requirements under **Section 60.56c(b)(12) and (c)(3) of Subpart Ec**;

(Ff) Monitoring requirements as provided in **40 CFR Section 60.57c of Subpart Ec**;

(Gg) Reporting and recordkeeping requirements as provided in **40 CFR Section 60.58c(b)-(f) of Subpart Ec** excluding fugitive emissions under **Section 60.58c(b)(2)(ii)** and siting under **Section 60.58c(b)(7)**;

(Hh) Permit requirements. Beginning September 15, 2000 or on the effective date of an EPA-approved operating permit program under Clean Air Act Title V and the implementing regulations under 40 CFR Part 70, whichever date is later, affected facilities shall operate pursuant to a permit issued under the EPA approved state operating permit program.

(b2) Small HMIWI that are located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area and which burn less than 2,000 pounds per week of hospital/medical/infectious waste, shall comply with the following requirements within one year after EPA approval of the State plan in lieu of the requirements in subsection (a) of this section:

(Aa) Emission Limits:

- (iA) Particulate matter: 197 mg/dscm;
- (iiB) Carbon monoxide: 40 ppm;
- (iiiC) Dioxins/furans: 800 ng/dscm;
- (ivD) Hydrogen chloride: 3100 ppm;
- (vE) Sulfur dioxide: 55 ppm;
- (viF) Nitrogen oxides: 250 ppm;
- (viiG) Lead: 10 mg/dscm;
- (viiiH) Cadmium: 4 mg/dscm;
- (ixI) Mercury: 7.5 mg/dscm.

(Bb) Stack opacity requirements as provided in **40 CFR Section 60.52c(b) of Subpart Ec**;

(Cc) Initial equipment inspection which, at a minimum includes the following:

(iA) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot flame sensor, as necessary;

(iiB) Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;

(iiiC) Inspect hinges and door latches, and lubricate as necessary;
(ivD) Inspect dampers, fans, and blowers for proper operation;
(vE) Inspect HMIWI door and door gaskets for proper sealing;
(viF) Inspect motors for proper operation;
(viiG) Inspect primary chamber refractory lining; clean and repair/replace lining as necessary;
(viiiH) Inspect incinerator shell for corrosion and/or hot spots;
(ixI) Inspect secondary/tertiary chamber and stack, clean as necessary;
(xJ) Inspect mechanical loader, including limit switches, for proper operation, if applicable;
(xiK) Visually inspect waste bed (grates), and repair/seal, as appropriate;
(xiiL) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments;

(xiiiM) Inspect air pollution control device(s) for proper operation, if applicable;
(xivN) Inspect waste heat boiler systems to ensure proper operation, if applicable;
(xvO) Inspect bypass stack components;

(xviP) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and
(xviiQ) Generally observe that the equipment is maintained in good operating condition.

(Dd) Equipment repairs. Within 10 operating days following an equipment inspection all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department establishing a date whereby all necessary repairs of the designated facility shall be completed;

(Ee) Equipment inspection. Equipment inspections shall be conducted annually (no more than 12 months following the previous annual equipment inspection), as outlined in (4)(b)(C) and (D) of this section;

(Ff) Compliance and performance testing requirements as follows:

(iA) Compliance and performance testing requirements as provided in **40 CFR Section 60.56c(a)(b)(1) through (b)(9), (b)(11) (Hg only), and (c)(1) of Subpart Ec**. The 2,000 lb/week limitation under (4)(b) of this section does not apply during performance tests;

(iiB) Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits;

(iiiC) Following the date on which the initial performance test is completed or is required to be completed under **40 CFR Section 60.8**, whichever date comes first, ensure that the designated facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as 3hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s);

(ivD) Except as provided in Subsection (v) of this section, operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3 hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emission limits;

(vE) The owner or operator of a designated facility may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph must be conducted using the identical operating parameters that indicated a violation under Subsection (iv) of this section.

(Gg) Monitoring requirements as follows:

(iA) Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation;

(iiB) Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI;

(iiiC) The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of the operating hours per calendar quarter that the designated facility is combusting hospital waste and/or medical/infectious waste.

(Hh) Reporting and recordkeeping requirements as follows:

(A) Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days of an inspection or the timeframe established by the Department; and

(B) Submit an annual report containing information recorded under Subsection (i) of this section no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report, once the unit is subject to permitting requirements under Title V of the Act, the owner or operator must submit these reports semiannually. The report shall be signed by the facilities manager.

(2) Citations in this rule to **40 CFR**, refer to **The Code of Federal Regulations, Title 40 Part 60**, revised as of July 1, 1998.

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 22-1998, f. & cert. ef. 10-21-98; renumbered from OAR 340-025-0750.

DIVISION ~~22~~232

GENERAL GASEOUS EMISSIONS EMISSION STANDARDS FOR VOC POINT SOURCES

Sulfur Content of Fuels

**General Emission Standards for
Volatile Organic Compounds**

340-022-0100-232-0010

Introduction

(1) ~~OAR 340-022-0100 through 340-022-0300~~ This division regulates sources of VOC which contribute to the formation of photochemical oxidant, mainly ozone.

(2) Since ozone standards are not violated in Oregon from October through April (because of insufficient solar energy), natural gas-fired afterburners may be permitted, on a case-by-case basis, to lay idle during the winter months.

(3) Sources regulated by ~~OAR 340-022-0100 through 340-022-0300~~ this division are new and existing sources in the Portland and Medford AQMA's and in the Salem SATS listed in subsections (a) through (n) of this section, including:

- (a) Gasoline dispensing facilities, storage tank filling;
- (b) Bulk gasoline plants and delivery vessels;
- (c) Bulk gasoline terminal loading;
- (d) Cutback asphalt;
- (e) Petroleum refineries, petroleum refinery leaks;
- (f) VOC liquid storage, secondary seals;
- (g) Coating including paper coating and miscellaneous painting;
- (h) Aerospace component coating;
- (i) Degreasers;
- (j) Asphaltic and coal tar pitch in roofing;
- (k) Flat wood coating;
- (l) Rotogravure and Flexographic printing;
- (m) Perchloroethylene dry cleaning;
- (n) Automotive Gasoline.

(4) Emissions units not covered by the source categories listed in section (3) of this rule which emit or have the potential to emit over 100 tons of VOC per year are subject to ~~OAR 340-022-0100~~ 232-0040(5).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under ~~OAR 340-020-0047~~ 200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0100.

Limitations and Requirements

340-022-0100-232-0020

General Requirements for New and Existing Sources Applicability

(1) Notwithstanding the emission limitations in ~~OAR 340-022-0100 through 340-022-0300~~ this division, all new major sources or major modifications at existing sources, located within the areas cited in section (2) of this rule, shall comply with ~~OAR 340-028-1900 through 340-028-2000~~ division 224 (New Source Review).

(2) All new and existing sources inside the following areas shall comply with the General Emission Standards for Volatile Organic Compounds:

- (a) Portland-Vancouver Air Quality Maintenance Area;
- (b) Medford-Ashland Air Quality Maintenance Area;

(c) Salem Area Transportation Study (SATS) Area.

(3) VOC sources located outside the areas cited in section (2) of this rule are exempt from the General Emission standards for Volatile Organic Compounds.

(4) All new and existing sources in the areas identified in section (2) of this rule shall apply Reasonably Available Control Technology (RACT) subject to the categorical RACT requirements set forth in ~~OAR 340-022-0100 through 340-022-0300~~ this division. Compliance with the requirements in ~~OAR 340-022-0100 through 340-022-0300~~ this division shall be presumed to satisfy the RACT requirement.

~~(5) All existing sources, operating prior to November 15, 1990, located inside the areas cited in subsections (2)(a) and (2)(c) of this rule, containing emissions units or devices for which no categorical RACT requirements exist and which have potential emissions before add-on controls of over 100 tons per year (TPY) of VOC from aggregated, non-regulated emission units, shall have RACT requirements developed on a case-by-case basis by the Department. Sources that have complied with New Source Review requirements per OAR 340-028-1900 through 340-028-2000 and are subject to Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) requirements are presumed to have met RACT requirements. A source may request RACT not be applied by demonstrating to the Department that their potential emissions before add-on controls are below 100 tons per year. Once a source becomes subject to RACT requirements under OAR 340-022-0104(5), it shall continue to be subject to RACT, unless VOC emissions fall below 100 tons per year and the source requests that RACT be removed, by demonstrating to the Department that their potential VOC emissions before add-on controls are below 100 tons per year. [moved to OAR 340-232-0040]~~

~~(6) Within 3 months of written notification by the Department of the applicability of this rule, or, for good cause shown, up to an additional three months as approved by the Department, the source shall submit to the Department a complete analysis of RACT for each category of emissions unit at the source, taking into account technical and economic feasibility of available control technology, and the emission reductions each technology would provide. This analysis does not need to include any emissions units subject to a specific RACT requirement under OAR 340-022-0100 through 340-022-0300. These RACT requirements approved by the Department shall be incorporated in the source's Air Contaminant Discharge Permit, and shall not become effective until approved by EPA as a source-specific SIP revision. The source shall have one year from the date of notification by the Department of EPA approval to comply with the applicable RACT requirements. [moved to OAR 340-232-0040]~~

~~(7) Failure by a source to submit a RACT analysis required by section (6) of this rule shall not relieve the source of complying with a RACT determination established by the Department. [moved to OAR 340-232-0040]~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 13-1995, f. & cert. ef. 5-25-95; DEQ 7-1997(Temp), f. & cert. ef. 4-28-97; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0104.

340-022-0102-232-0030

Definitions

~~As used in OAR 340-022-0100 through 340-022-0300: The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.~~

(1) "Aerospace component" means the fabricated part, assembly of parts, or completed unit of any aircraft, helicopter, missile or space vehicle.

(2) "Air dried coating" means coatings which are dried by the use of air at ambient temperature.

(3) "Applicator" means a device used in a coating line to apply coating.

(4) "Bulk gasoline plant" means a gasoline storage and distribution facility which receives gasoline from bulk terminals by railroad car or trailer transport, stores it in tanks, and subsequently dispenses it via account trucks to local farms, businesses, and gasoline dispensing facilities.

(5) "Bulk gasoline terminal" means a gasoline storage facility which receives gasoline from refineries primarily by pipeline, ship, or barge, and delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by tank truck.

(6) "Can coating" means any coating applied by spray, roller, or other means to the inside and/or outside surfaces of metal cans, drums, pails, or lids.

(7) "Carbon bed breakthrough" means the initial indication of depleted adsorption capacity characterized by a sudden measurable increase in VOC concentration exiting a carbon adsorption bed or column.

(8) "Certified storage device" means vapor recovery equipment for gasoline storage tanks as certified by the State of California Air Resources Board Executive Orders, copies of which are on file with the Department, or which has been certified by other air pollution control agencies and approved by the Department.

(9) "Class II hardboard paneling finish" means finishers which meet the specifications of Voluntary Product Standard PS-59-73 as approved by the American National Standards Institute.

(10) "Clear coat" means a coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color.

(11) "Coating" means a material applied to a surface which forms a continuous film and is used for protective and/or decorative purposes.

(12) "Coating line" means one or more apparatus or operations which include a coating applicator, flash-off area, and oven or drying station wherein a surface coating is applied, dried, and/or cured.

(13) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.

(14) "Crude oil" means a naturally occurring mixture which consists of hydrocarbons and/or sulfur, nitrogen, and/or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.

(15) "Custody transfer" means the transfer of produced petroleum and/or condensate after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

(16) "Cutback asphalt" means a mixture of a base asphalt with a solvent such as gasoline, naphtha, or kerosene. Cutback asphalts are rapid, medium, or slow curing (known as RC, MC, SC), as defined in **ASTM D2399**.

(17) "Day" means a 24-hour period beginning at midnight.

(18) "Delivery vessel" means any tank truck or trailer used for the transport of gasoline from sources of supply to stationary storage tanks.

(19) "Dry cleaning facility" means any facility engaged in the cleaning of fabrics in an essentially nonaqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning, and drying by tumbling in an airstream. The facility includes but is not limited to any washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves.

(20) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation.

(21) "External floating roof" means a cover over an open top storage tank consisting of a double deck or pontoon single deck which rests upon and is supported by the volatile organic liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.

(22) "Extreme performance coatings" means coatings designed for extreme environmental conditions such as exposure to any one of the following: continuous ambient weather conditions, temperature consistently above 95° C., detergents, abrasive and scouring agents, solvents, corrosive atmosphere, or similar environmental conditions.

(23) "Extreme performance interior topcoat" means a topcoat used in interior spaces of aircraft areas requiring a fluid, stain or nicotine barrier.

(24) "Fabric coating" means any coating applied on textile fabric. Fabric coating includes the application of coatings by impregnation.

(25) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(26) "Freeboard ratio" means the freeboard height divided by the width (not length) of the degreaser's air/solvent area.

(27) "Forced air dried coating" means a coating which is dried by the use of warm air at temperatures up to 90° C. (194° F.).

(28) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 27.6 kPa (4.0 psi) or greater which is used fuel internal combustion engines.

(29) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle, boat, or airplane gasoline tanks from stationary storage tanks.

(30) "Gas service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the gaseous phase.

(31) "Hardboard" is a panel manufactured primarily from inter-felted ligno-cellulosic fibers which are consolidated under heat and pressure in a hot press.

(32) "Hardwood plywood" is plywood whose surface layer is a veneer of hardwood.

(33) "High performance architectural coating" means coatings applied to aluminum panels and moldings being coated away from the place of installation.

(34) "Internal floating roof" means a cover or roof in a fixed roof tank which rests upon or is floating upon the petroleum liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.

(35) "Large appliance" means any residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dish washers, trash compactors, air conditioners, and other similar products.

(36) "Leaking component" means any petroleum refinery source which has a volatile organic compound concentration exceeding 10,000 parts per million (ppm) when tested in the manner described in method 31 and 33 on file with the Department. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open-ended pipes. Excluded from these sources are valves which are not externally regulated.

(37) "Liquid-mounted" means a primary seal mounted so the bottom of the seal covers the liquid surface between the tank shell and the floating roof.

(38) "Liquid service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the liquid phase.

(39) "Low solvent coating" means a coating which contains a lower amount of volatile organic compound than conventional organic solvent borne coatings. Low solvent coatings include waterborne, higher solids, electrodeposition and powder coatings.

(40) "Major modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase for any pollutant subject to regulation under the Clean Air Act.

(41) "Major source" means a stationary source which emits or has the potential to emit any pollutant regulated under the Clean Air Act at a significant emission rate.

(42) "Maskant for chemical processing" means a coating applied directly to an aerospace component to protect surface areas when chemical milling, anodizing, aging, bonding, plating, etching and/or performing other chemical operations on the surface of the component.

(43) "Miscellaneous metal parts and products" means any metal part or metal product, even if attached to or combined with a nonmetal part or product, except cans, coils, metal furniture, large appliances, magnet wires, automobiles, ships, and airplane bodies.

(44) "Natural finish hardwood plywood panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

(45) "Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.

(46) "Oven-dried" means a coating or ink which is dried, baked, cured, or polymerized at temperatures over 90° C. (194° F.).

(47) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(48) "Paper coating" means any coating applied on paper, plastic film, or metallic foil to make certain products, including (but not limited to) adhesive tapes and labels, book covers, post cards, office copier paper, drafting paper, or pressure sensitive tapes. Paper coating includes the application of coatings by impregnation and/or saturation.

(49) "Person" means the federal government, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.

(50) "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of petroleum, crude oil, or through redistillation, cracking, or reforming of unfinished petroleum derivatives. "Petroleum refinery" does not mean a re-refinery of used motor

Is or other waste chemicals. "Petroleum refinery" does not include asphalt blowing or separation of products shipped together.

(51) "Plant site basis" means all of the sources on the premises (contiguous land) covered in one Air Contaminant Discharge Permit unless another definition is specified in a Permit.

(52) "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 limitations on the capacity of a source to emit an air pollutant, excluding air pollution control equipment, shall be treated as part of its design if the limitation is enforceable by the Department.

(53) "Pretreatment wash primer" means a coating which contains a minimum of 0.5% acid by weight for surface etching and is applied directly to bare metal surfaces to provide corrosion resistance and adhesion.

(54) "Printed interior panels" means panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.

(55) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage.

(56) "Prime coat" means the first of two or more films of coating applied in an operation.

(57) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(58) "Reasonably available control technology" or "RACT" means the lowest emission limitation that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

(59) "Roll printing" means the application of words, designs and pictures to a substrate by means of hard rubber or steel rolls.

(60) "Sealant" means a coating applied for the purpose of filling voids and providing a barrier against penetration of water, fuel or other fluids or vapors.

(61) "Specialty printing" means all gravure and flexographic operations which print a design or image, excluding publication gravure and packaging printing. Specialty Printing includes printing on paper plates and cups, patterned gift wrap, wallpaper, and floor coverings.

(62) "Splash filling" means the filling of a delivery vessel or stationary storage tanks through a pipe or hose whose discharge opening is above the surface level of the liquid in the tank being filled.

(63) "Source" means any building, structure facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and 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.

(64) "Source category" means all sources of the same type or classification.

(65) "Submerged fill" means any fill pipe or hose, the discharge opening of which is entirely submerged when the liquid is 6 inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe, the discharge of which is entirely submerged when the liquid level is 18 inches, or is twice the diameter of the fill pipe, whichever is greater, above the bottom of the tank.

(66) "Thin particleboard" means a manufactured board 1/4 inch or less in thickness made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure.

(67) "Thirty-day rolling average" means any value arithmetically averaged over any consecutive thirty days.

(68) "Tileboard" means paneling that has a colored waterproof surface coating.

(69) "Topcoat" means a coating applied over a primer or intermediate coating for purposes such as appearance, identification or protection.

(70) "True vapor pressure" means the equilibrium pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks", February, 1980.

(71) "Vapor balance system" means a combination of pipes or hoses which create a closed system between the vapor spaces of an unloading tank and a receiving tank such that vapors displaced from the receiving tank are transferred to the tank being unloaded.

(72) "Vapor-mounted" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the primary seal, the tank shell, the liquid surface, and the floating roof.

(73) "Volatile organic compound" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Excluded from the definition of VOC are those compounds which the U.S. Environmental Protection Agency classifies as being of negligible photochemical reactivity, including: Methane; ethane; methylene chloride

trichloromethane); 1,1,1 trichloroethane (methyl chloroform); 1,1,2 trichloro 1,2,2 trifluoroethane (CFC 113); trichlorofluoromethane (CFC 11); dichlorodifluoromethane (CFC 12); chlorodifluoromethane (HCFC 22); trifluoromethane (HCFC 23); 1,2 dichloro 1,1,2,2 tetrafluoroethane (CFC 114); chloropentafluoroethane (CFC 115); 1,1,1 trifluoro 2,2-dichloroethane (HCFC 123); 1,1,1,2 tetrafluoroethane (HFC 134a); 1,1-dichloro 1-fluoroethane (HCFC 141b); 1-chloro 1,1-difluoroethane (HCFC 142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC 124); HCFC 225ca and cb; HFC 43-10mee; pentafluoroethane (HFC 125); 1,1,2,2 tetrafluoroethane (HFC 134); 1,1,1 trifluoroethane (HFC 143a); 1,1-difluoroethane (HFC 152a); perchlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene; and perfluorocarbon compounds which fall into these classes:

- (a) Cyclic, branched, or linear, completely fluorinated alkanes;
- (b) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (c) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (d) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0020.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 13-1995, f. & cert. ef. 5-25-95; DEQ 6-1996, f. & cert. ef. 3-29-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 20-1998, f. & cert. ef. 10-12-98

340-232-0040

General Non-categorical Requirements

~~OAR 340-022-0104(5)~~ (1) All existing sources, operating prior to November 15, 1990, located inside the areas cited in ~~subsections OAR 340-232-0020(2)(a) and or (2)(c) of this rule~~, containing emissions units or devices for which no categorical RACT requirements exist and which have potential emissions before add-on controls of over 100 tons per year (TPY) of VOC from aggregated, non-regulated emission units, shall have RACT requirements developed on a case-by-case basis by the Department. Sources that have complied with New Source Review requirements per ~~OAR 340-028-1900 through 340-028-2000 division 224~~ and are subject to Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) requirements are presumed to have met RACT requirements. A source may request RACT not be applied by demonstrating to the Department that their potential emissions before add-on controls are below 100 tons per year. Once a source becomes subject to RACT requirements under ~~OAR 340-022-0104(5)~~ this section, it shall continue to be subject to RACT, unless VOC emissions fall below 100 tons per year and the source requests that RACT be removed, by demonstrating to the Department that their potential VOC emissions before add-on controls are below 100 tons per year.

~~OAR 340-022-0104(6)~~ (2) Within 3 months of written notification by the Department of the applicability of this rule, or, for good cause shown, up to an additional three months as approved by the Department, the source shall submit to the Department a complete analysis of RACT for each category of emissions unit at the source, taking into account technical and economic feasibility of available control technology, and the emission reductions each technology would provide. This analysis does not need to include any emissions units subject to a specific categorical RACT requirement under ~~OAR 340-022-0100 through 340-022-0300 this division~~. These RACT requirements approved by the Department shall be incorporated in the source's Air Contaminant Discharge Permit, and shall not become effective until approved by EPA as a source specific SIP revision. The source shall have one year from the date of notification by the Department of EPA approval to comply with the applicable RACT requirements.

~~OAR 340-022-0104(7)~~ (3) Failure by a source to submit a RACT analysis required by section (62) of this rule shall not relieve the source of complying with a RACT determination established by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.:

40-022-0106232-0050

Exemptions

Natural gas-fired afterburners needed to comply with ~~OAR 340-022-0100 through 340-022-0300~~ this division shall be operated during the months of May, June, July, August, and September. During other months, the afterburners may be turned off with prior written Departmental approval, provided that the operation of such devices is not required for purposes of occupational health or safety, or for the control of toxic substances, malodors, or other regulated pollutants, or for complying with visual air contaminant limitations.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040.~~]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0106.

~~340-022-0107~~232-0060

Compliance Determination

(1) Certification and test procedures required by ~~OAR 340-022-0100 through 340-022-0300~~ this division shall be conducted in accordance with the Department's **Source Sampling Manual**. Applicants are encouraged to submit designs approved by other air pollution control agencies where VOC control equipment has been developed. Construction approvals and proof of compliance will, in most cases, be based on Departmental evaluation of the source and controls.

(2) Approval by the Department of alternative methods for demonstrating compliance where specified and allowed in ~~OAR 340-022-0100 through 340-022-0300~~ this division, including approval of equivalent testing methods for determining compliance, shall be subject to review and approval by EPA.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040.~~]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; Renumbered from 340-22-106(3) & (4); DEQ 23-1980, f. & ef. 9-26-80; DEQ 12-1981(Temp), f. & ef. 4-29-81; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0107.

~~340-022-0110~~232-0070

Gasoline Dispensing Facilities

(1) No person may transfer or cause or allow the transfer of gasoline from any delivery vessel which was filled at a Bulk Gasoline Terminal into any gasoline dispensing facility tank of less than 40,000 gallon capacity unless:

(a) The tank is filled by submerged fill;

(b) A vapor balance system is used which consists of a certified gasoline storage tank device capable of collecting the vapor from volatile organic liquids and gases so as to prevent their emission to the outdoor atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

(c) The vapors are processed by a system demonstrated to the satisfaction of the Department to be of equal effectiveness; and

(d) All equipment associated with the vapor balance system shall be maintained to be vapor tight and in good working order. No gasoline delivery shall take place unless the vapor return hose is connected by the delivery truck operator, if required by subsection (b) of this section.

(2) Exemptions and Limitations:

(a) All existing storage tanks at gasoline dispensing facilities with a rated capacity of 1,500 gallons or less are exempt from the submerged fill and vapor balance system requirements in section (1) of this rule;

(b) All new gasoline storage tanks with a rated capacity of 1500 gallons or less are exempt from the vapor balance system requirement in subsection (1)(b) of this rule;

(c) All new gasoline storage tanks of any capacity, installed after the effective date of this rule, shall have a submerged fill-tube system;

(d) Transfers made to storage tanks of gasoline dispensing facilities equipped with floating roofs or their equivalent shall be exempt from subsections 1(a) and 1(b) of this rule.

(3) Compliance with subsection (1)(b) of this rule shall be determined by verifications of use of equipment identical to equipment most recently approved and listed for such use by the Department or by testing in accordance with Method 30 on file with the Department.

(4) All persons subject to OAR ~~340-022-0100~~232-0010 and this rule shall obtain and maintain a current vapor balance system permit from the Department:

(a) All persons applying for this permit for any time period beginning after December 31, 1999 shall be subject to a biennial fee of \$100;

(b) The Department may issue vapor balance permits for up to 10 years;

(c) Persons applying for a new permit with an effective date beginning before December 31, 1999 or in an odd numbered year shall pay the annual fee of \$50 and then will be billed for the biennial fee for the next biennial period;

(d) Fees shall be paid at the time of application and by December 1 in odd numbered years for the next biennial period.

(5) When a facility changes ownership, the new owner shall obtain a new vapor balance system permit, as described in section (4) of this rule above, within 60 days of the change of ownership.

(6) No person shall cause or allow the installation of non-certified gasoline storage tank device equipment at any gasoline dispensing facility where a vapor balance system is required.

(7) Persons subject to this rule shall apply for a renewal vapor balance system permit not less than 60 days prior to the expiration date of the existing permit. The biennial fee shall be included with the application for renewal.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 12-1981(Temp), f. & ef. 4-29-81; DEQ 16-1983, f. & ef. 10-19-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1994, f. & cert. ef. 11-22-94; DEQ 20-1998, f. & cert. ef. 10-12-98 (corrected ~4-23-99); renumbered from OAR 340-022-0110.

~~340-022-0120~~232-0080

Bulk Gasoline Plants

(1) No person shall transfer or allow the transfer of gasoline to or from a bulk gasoline plant unless:

(a) Each stationary storage tank uses submerged fill when transferring gasoline; and

(b) The displaced vapors from filling each tank are prevented from being released to the atmosphere through use of a vapor tight vapor balance system, or equivalent system as approved in writing by the Department. All equipment associated with the vapor balance system shall be maintained to be vapor tight and in good working order.

(2) Each stationary gasoline storage tank may release vapor to the atmosphere through a pressure relief valve set to release at the highest possible pressure in accordance with state or local fire codes, or the National Fire Prevention Association guidelines and no less than 3.4 kPa (0.50 psi) or some other setting approved in writing by the Department.

(3) Gasoline shall be handled in a manner to prevent spillage, discharging into sewers, storage in open containers, or handled in any other manner that would result in evaporation. If more than five gallons are spilled, the operator shall report the spillage in accordance with OAR ~~340-028-1400~~214-0300 to ~~340-028-1450~~214-0350.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 12-1981(Temp), f. & ef. 4-29-81; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0120.

~~340-022-0130~~232-0090

Bulk Gasoline Terminals

(1) No terminal owner or operator, shall allow volatile organic compounds (VOC) to be emitted into the atmosphere in excess of 80 milligrams of VOC per liter of gasoline loaded from the operation of loading truck tanks, and truck trailers at bulk gasoline terminals with a daily throughputs of greater than 76,000 liters (20,000 gallons) per day of gasoline (determined by a thirty-day rolling average):

(a) The owner or operator of a gasoline loading terminal shall only allow the transfer of gasoline between the facility and a truck tank or a truck trailer when a current leak test certification for the delivery vessel is on file with the terminal or a valid permit as required by OAR 340-~~022-0137232-0100~~(1)(c) is displayed on the delivery vessel;

(b) The owner or operator of a truck tank or a truck trailer shall not make any connection to the terminal's gasoline loading rack unless the gasoline delivery vessel has been tested in accordance with OAR 340-~~022-0137232-0100~~(1);

(c) The truck driver or other operator who fills a delivery truck tank and/or trailer tank shall not take on a load of gasoline unless the vapor return hose is properly connected;

(d) All equipment associated with the vapor balance system shall be maintained to be vapor tight and in good working order.

(2) Compliance with section (1) of this rule shall be determined by testing in accordance with Method 33 on file with the Department. The method for determining compliance with section (1) of this rule are delineated in 40 CFR Part 60, Subpart XX, §60.503.

(3) Bulk Gasoline terminals shall comply with the following within the limits of section (1) of this rule:

(a) All displaced vapors and gases during tank truck gasoline loading operations shall be vented only to the vapor control system;

(b) The loading device must not leak when in use. The loading device shall be designed and operated to allow no more than 10 cubic centimeters drainage per disconnect on the basis of 5 consecutive disconnects;

(c) All loading liquid lines shall be equipped with fittings which make vapor-tight connections and which close automatically and immediately when disconnected;

(d) All vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically and immediately when disconnected or which contain vapor tight unidirectional valves;

(e) Gasoline shall be handled in a manner to prevent its being discarded in sewers or stored in open containers or handled in any manner that would result in evaporation. If more than 5 gallons are spilled, the operator shall report the spillage in accordance with OAR 340-~~028-1400214-0300~~ through 340-~~028-1450214-0350~~;

(f) The vapor balance system shall be operated in a manner to prevent the pressure therein from exceeding the tank truck trailer pressure relief settings.

[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-~~020-0047200-0040~~.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 12-1981(Temp), f. & ef. 4-29-81; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; Sections (2) and (3) renumbered from 340-22-133 and 340-22-136; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1994, f. & cert. ef. 11-22-94; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0130.

~~340-022-0137232-0100~~

Testing Vapor Transfer and Collection Systems

(1) No person shall allow a vapor-laden delivery vessel subject to OAR 340-~~022-0120232-0080~~(5) to be filled or emptied unless the delivery vessel:

(a) Is tested annually according to the test Method 32 on file with the Department, or **CFR Part 60**, EPA Method 21 or 27, or **California Air Resources Board Method 2-5**;

(b) Sustains a pressure change of no more than 750 pascals (3 inches of H₂O) in five minutes when pressurized to a gauge pressure of 4,500 pascals (18 inches of H₂O) or evacuated to a gauge pressure of 1,500 pascals (6 inches of H₂O) during the testing required in subsection (1)(a) of this rule; and

(c) Displays a valid permit near the Department of Transportation test date markings required by **49 CFR 177.824h**, which:

(A) Shows the year and month that the gasoline tank truck last passed the test required in subsections (1)(a) and (b) of this rule;

(B) Shows the identification of the permit; and

(C) Expires not more than one year from the date of the leak-test test, or if tested in California, on the expiration date so specified.

(d) Has its vapor return hose connected by the truck operator so that gasoline vapor is not expelled to the atmosphere.

(2) The owner or operator of a vapor collection system subject to this regulation shall design and operate the vapor collection system and the gasoline loading equipment in a manner that prevents:

(a) Gauge pressure from exceeding 4,500 pascals (18 inches of H₂O) and vacuum from exceeding 1,500 pascals (6 inches of H₂O) in the gasoline tank truck being loaded;

(b) A reading equal to or greater than 100 percent of the lower explosive limit (LEL, measured as propane) at 2.5 centimeters from all points on the perimeter of a potential leak source when measured by the Method 31 and 33 on file with the Department, or unloading operations at gasoline dispensing facilities, bulk plants and bulk terminals; and

(c) Visible liquid leaks during loading or unloading operations at gasoline dispensing facilities, bulk plants and bulk terminals.

(3) The Department may, at any time, monitor a gasoline tank truck, vapor collection system, or vapor control system, by the methods on file with the Department, to confirm continuing compliance with section (1) or (2) of this rule.

(4) Recordkeeping and Reporting:

(a) The owner or operator of a source of volatile organic compounds subject to this rule shall maintain records of all certification testing and repairs. The records must identify the gasoline tank truck, vapor collection system, or vapor control system; the date of the test or repair; and if applicable, the type of repair and the date of retest. The records must be maintained in a legible, readily available condition for at least two years after the date of testing or repair was completed;

(b) Copies of all records and reports under subsection (4)(a) of this rule shall be submitted to the Department within 30 days of certification testing.

(c) Persons applying for a permit required by this rule shall at the time of application pay a fee of \$25.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 23-1980, f. & ef. 9-26-80; DEQ 12-1981(Temp), f. & ef. 4-29-81; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 25-1994, f. & cert. ef. 11-22-94; renumbered from OAR 340-022-

0137.

340-232-0110 (reserved)

340-022-0140232-0120

Cutback and Emulsified Asphalt

(1) Use of any cutback asphalts for paving roads and parking areas is prohibited during the months of April, May, June, July, August, September, and October, except as provided for in section (2) of this rule.

(2) Slow curing (SC) and medium curing (MC) cutback asphalts are allowed during all months for the following uses and applications:

(a) Solely as a penetrating prime coat for aggregate bases prior to paving;

(b) For the manufacture of medium-curing patching mixes to provide long-period storage stockpiles used exclusively for pavement maintenance; or

(c) For all uses when the National Weather Service forecast of the high temperature during the 24-hour period following application is below 10° C. (50° F.).

(3) Rapid curing (RC) grades of cutback asphalt are always prohibited.

(4)(a) Use of emulsified asphalts is unrestricted if solvent content is kept at or less than the limits listed below. If these limits are exceeded, then the asphalt shall be classified as medium curing (MC) cutback asphalts, and shall be limited to only the uses permitted by section (2) of this rule. (Grades of Emulsion Per AASHTO Designation M 208-72 — Maximum Solvent Content by Weight.):

(A) CRS-1 — 3%;

(B) CRS-2 — 3%;

(C) CSS-1 — 3%;

(D) CSS-1h — 3%;

(E) CMS-2 — 8%;

(F) CMS-2h — 8%;

(G) CMS-2S — 12%.

(b) Solvent content is determined by ASTM distillation test D-244.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0140.

340-022-0150232-0130

Petroleum Refineries

This rule shall apply to all petroleum refineries:

(1) Vacuum-Producing Systems:

(a) Noncondensable VOC from vacuum producing systems shall be piped to an appropriate firebox, incinerator or to a closed refinery system;

(b) Hot wells associated with contact condensers shall be tightly covered and the collected VOC introduced into a closed refinery system.

(2) Wastewater Separators:

(a) Wastewater separators' forebays shall incorporate a floating pontoon or fixed solid cover with all openings sealed totally enclosing the compartmented liquid contents, or a floating pontoon or double deck-type cover equipped with closure seals between the cover edge and compartment wall;

(b) Accesses for gauging and sampling shall be designed to minimize VOC emissions during actual use. All access points shall be closed with suitable covers when not in use.

(3) Process Unit Turnaround:

(a) The VOC contained in a process unit to be depressurized for turnaround shall be introduced to a closed refinery system, combusted by a flare, or vented to a disposal system;

(b) The pressure in a process unit following depressurization for turnaround shall be less than 5 psig before venting to the ambient air.

(4) Maintenance and Operation of Emission Control Equipment: Equipment for the reduction, collection or disposal of VOC shall be maintained and operated in a manner commensurate with the level of maintenance and housekeeping of the overall plant.

(5) Recordkeeping: The owner or operator shall maintain a record of process unit turnarounds including an approximation of the quantity of VOC emitted to the atmosphere. Records shall be maintained for two years.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0150.

340-022-0153232-0140

Petroleum Refinery Leaks

(1) All persons operating petroleum refineries shall comply with this section concerning leaks:

(a) The owner or operator of a petroleum refinery complex, upon detection of a leaking component, which has a volatile organic compound concentration exceeding 10,000 ppm when tested in the manner described below shall:

(A) Include the leaking component on a written list of scheduled repairs; and

(B) Repair and retest the component within 15 days.

(b) Except for safety pressure relief valves, no owner or operator of a petroleum refinery shall install or operate a valve at the end of a pipe or line containing volatile organic compounds unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only when a sample is being taken during maintenance operations;

(c) Pipeline valves and pressure relief valves in gaseous volatile organic compound service shall be marked in some manner that will be readily obvious to both refinery personnel performing monitoring and the Department.

(2) Testing Procedures: Testing and calibration procedures to determine compliance with this rule shall be done in accordance with EPA Method 21.

(3) Monitoring, Recordkeeping, Reporting:

(a) The owner or operator of a petroleum refinery shall maintain, as a minimum, records of all testing conducted under this rule; plus records of all monitoring conducted under subsections (b) and (c) of this section;

(b) The owner or operator of a petroleum refinery subject to this rule shall:

(A) Monitor yearly by the methods referenced in section (2) of this rule all:

(i) Pump seals;

(ii) Pipeline valves in liquid service; and

(iii) Process drains.

(B) Monitor quarterly by the methods referenced in section (2) of this rule all:

(i) Compressor seals;

(ii) Pipeline valves in gaseous service; and

(iii) Pressure relief valves in gaseous service.

(C) Monitor weekly by visual methods all pump seals;

(D) Monitor immediately any pump seal from which liquids are observed dripping;

(E) Monitor any relief valve within 24 hours after it has vented to the atmosphere; and

(F) Monitor immediately after repair of any component that was found leaking.

(c) Pressure relief devices which are connected to an operating flare header, vapor recovery device, inaccessible valves, storage tank valves, or valves that are not externally regulated are exempt from the monitoring requirements in subsection (b) of this section;

(d) The owner or operator of a petroleum refinery, upon the detection of a leaking component, shall affix a weatherproof and readily visible tag bearing an identification number and the date the leak is located to the leaking component. This tag shall remain in place until the leaking component is repaired;

(e) The owner or operator of a petroleum refinery, upon the completion of each yearly and/or quarterly monitoring procedure, shall:

(A) Submit a report to the Department on the 15th day of January, April, July, and September, listing the leaking components that were located but not repaired within the required time limit in subsection (1)(a) of this rule;

(B) Submit a signed statement attesting to the fact that, with the exception of those leaking components listed in paragraph (A) of this subsection, all monitoring and repairs were performed as stipulated.

(f) The owner or operator of a petroleum refinery shall maintain a leaking component monitoring log which shall contain, at a minimum, the following data:

(A) The name of the process unit where the component is located;

(B) The type of component (e.g., valve, seal);

(C) The tag number of the component;

(D) The date on which a leaking component is discovered;

(E) The date on which a leaking component is repaired;

(F) The date and instrument reading of the recheck procedure after a leaking component is repaired;

(G) A record of the calibration of the monitoring instrument;

(H) Those leaks that cannot be repaired until turnaround, (exceptions to the 15-day requirement of paragraph (1)(a)(B) of this rule); and

(I) The total number of components checked and the total number of components found leaking.

(g) Copies of all records and reports required by this section shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report submitted;

(h) Copies of all records and reports required by this section shall immediately be made available to the Department upon verbal or written request at any reasonable time;

(i) The Department may, upon written notice, modify the monitoring, recordkeeping and reporting requirements.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0153.

~~340-022-0160232-0150~~

Liquid Storage

(1) Owners or operators which have tanks storing methanol or other volatile organic compound liquids with a true vapor pressure, as stored, greater than 10.5 kPa (kilo Pascals) (1.52 psia), at actual monthly average storage temperatures, and having a capacity greater than 150,000 liters (approximately 39,000 gallons) shall comply with one of the following:

(a) Meet the equipment specifications and maintenance requirements of the federal standards of performance for new stationary sources — Storage Vessels for Petroleum Liquids, **40 CFR, 60 Subpart K, and Ka**, as amended by **Federal Register, April 4, 1980, pages 23379 through 23381**;

(b) Be retrofitted with a floating roof or internal floating cover using at least a nonmetallic resilient seal as the primary seal meeting the equipment specifications in the federal standards referred to in subsection (a) of this section or its equivalent.

(2) All seals used in subsections (1)(b) and (c) of this rule are to be maintained in good operating condition and the seal fabric shall contain no visible holes, tears or other openings.

(3) All openings, except stub drains and those related to safety (such as slotted gage wells), are to be sealed with suitable closures. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place; except for slotted gage wells which must have floating seals with one-half inch edge gaps or less.

(4) Secondary Seals:

(a) Applicability: Subsection (c) of this section applies to all VOC liquid storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (39,000 gallons) except as indicated in subsection (c) and paragraph (c)(H) of this section;

(b) Exemptions: Subsection (c) of this section does not apply to petroleum liquid storage vessels which:

(A) Are used to store waxy, heavy pour crude oil;

(B) Have capacities less than 1,600,000 liters (420,000 gallons) and are used to store produced crude oil and condensate prior to lease custody transfer;

(C) Contain a VOC liquid with a true vapor pressure of less than 10.5 kPa (1.5 psia) where the vapor pressure is measured at the storage temperature;

(D) Contain a VOC liquid with a true vapor pressure less than 27.6 kPa (4.0 psia):

(i) Are of welded construction; and

(ii) Presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Department; or

(E) Are of welded construction, equipped with a metallic-type shoe primary seal and has a secondary seal from the top of the shoe seal to the tank wall (shoemounted secondary seal).

(c) No owner of a VOC liquid storage vessel subject to this rule shall store VOC liquid in that vessel unless:

(A) The vessel has been fitted with:

(i) A continuous secondary seal extending from the floating roof to the tank wall (rim-mounted secondary seal); or

(ii) A closure or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required under subparagraph (A)(i) of this subsection as approved in writing by the Department.

(B) All seal closure devices meet the following requirements:

(i) There are no visible holes, tears, or other openings in the seal(s) or seal fabric;

(ii) The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and

(iii) For vapor mounted seals, the accumulated area of gaps exceeding 0.32 cm (1/8 inch) in width between the secondary seal and the tank wall are determined by the method in subsection (d) of this section and shall not exceed 21.2 cm² per meter of tank diameter (1.0 in² per foot of tank diameter).

(C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:

(i) Equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and

(ii) Equipped with projections into the tank which remain below the liquid surface at all times.

(D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports;

(E) Rim vents are set to open only when the roof is being floated off the leg supports or at the manufacturer's commended setting;

(F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least 90 percent of the area of the opening; and

(G) The owner or operator of a VOC liquid storage vessel with an external floating roof subject to subsection (c) of this section shall:

(i) Perform routine inspections semi-annually in order to ensure compliance with paragraphs (A) through (F) of this subsection and the inspections shall include a visual inspection of the secondary seal gap;

(ii) Measure the secondary seal gap annually in accordance with subsection (d) of this section when the floating roof is equipped with a vapor-mounted primary seal; and

(iii) Maintain records of the types of VOC liquids stored, the maximum true vapor pressure of the liquid as stored, and the results of the inspections performed in subparagraphs (G)(i) and (ii) of this subsection.

(H) The owner or operator of a VOC liquid storage vessel having a capacity equal to or less than 150,000 liters (39,000 gallons) with an external floating roof, but containing a VOC liquid with a true vapor pressure greater than 7.00 kPa (1.0 psi), shall maintain records of the average monthly storage temperature, the type of liquid, and the maximum true vapor pressure for all VOC liquids with a true vapor pressure greater than 7.0 kPa;

(I) The owner or operator of a VOC liquid storage vessel subject to this rule, shall submit to the Department, as a minimum, annual reports summarizing the inspections;

(J) Copies of all records and reports under paragraphs (G) (H), and (I) of this subsection shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report submitted;

(K) Copies of all records and reports under this section shall immediately be made available to the Department, upon verbal or written request, at any reasonable time;

(L) The Department may, upon written notice, require more frequent reports or modify the monitoring and recordkeeping requirements, when necessary to accomplish the purposes of this rule.

(d) Secondary Seal Compliance Determination:

(A) The owner or operator of any volatile organic compound source required to comply with section (4) of this rule shall demonstrate compliance by the methods of this section or an alternative method approved by the Department;

(B) A person proposing to conduct a volatile organic compound emissions test shall notify the Department of the intent to test not less than 30 days before the proposed initiation of the tests so the Department may observe the test. The notification shall contain the information required by, and be in a format approved by the Department;

(C) Compliance with subparagraph (4)(c)(B)(iii) of this rule shall be determined by:

(i) Physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 0.32 cm (1/8 inch) uniform diameter probe passes freely (without forcing or binding against the seal) between the seal and tank wall; and

(ii) Summing the area of the individual gaps.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0160.

340-022-0170232-0160

Surface Coating in Manufacturing

(1) No person shall operate a coating line which emits into the atmosphere volatile organic compounds in excess of the limits in section (5) of this rule, expressed as pounds VOC per gallon of coating applied, excluding water and exempt solvents, unless an alternative emission limit is approved by the Department pursuant to section (3) of this rule or emissions are controlled to an equivalent level pursuant to section (7) of this rule.

(2) Exemptions:

(a) This rule does not apply to airplanes painted out of doors in open air; automobile and truck refinishing; customized top coating of automobiles and trucks, if production is less than 35 vehicles per day; marine vessels and vessel parts painted out in the open air; flat wood coating; wood furniture and wood cabinets; wooden doors, mouldings, and window frames; machine staining of exterior wood siding; high temperature coatings (for service above 500° F.); lumber marking coatings; potable water tank inside coatings; high performance inorganic zinc coatings, air dried, applied to fabricated steel; and markings by stencil for railroad cars;

(b) This rule does not apply to:

(A) Sources whose potential to emit from activities identified in section (5) of this rule of volatile organic compounds are less than 10 tons per year (or 3 lb. VOC/hr or 15 lb. VOC/day actual); or

(B) Sources used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance (such as research facilities, pilot plant operations, and laboratories) unless:

(i) The operation of the source is an integral part of the production process; or

(ii) The emissions from the source exceed 363 kilograms (800 pounds) in any calendar month.

(3) Exceptions:

(a) On a case-by-case basis, the Department may approve exceptions to the emission limits specified in section (5) of this rule, upon documentation by the source that an alternative emission limit would satisfy the federal criteria for reasonably available control technology (RACT);

(b) Included in this documentation must be a complete analysis of technical and economic factors which:

(A) Prevent the source from using both compliance coatings and pollution control equipment; and

(B) Justify the alternative emission limit sought by the source.

(c) The alternative emission limit approved by the Department shall be incorporated into the source's Air Contaminant Discharge Permit, or Title V operating permit, and shall not become effective until approved by EPA as a source specific SIP revision.

(4) Applicability: This rule applies to each coating line, which includes the application area(s), flashoff area(s), air and forced air drier(s), and oven(s) used in the surface coating of the parts and products in subsections (5)(a) through (j) of this rule.

(5) Process and Limitation: These emission limitations shall be based on a daily average except subsection (5)(e) of this rule shall be based on a monthly average. If more than one emission limitation in this rule applies to a specific coating, then the most stringent emission limitation shall be applied:

(a) Can Coating:

(A) Sheet basecoat (exterior and interior) and over-varnish; two-piece can exterior (basecoat and over-varnish) 2.8 lb/gal;

(B) Two- and three-piece can interior and exterior body spray, two-piece can exterior end (spray or roll coat) 4.2 lb/gal;

(C) Three-piece can side-seam spray 5.5 lb/gal;

(D) End sealing compound 3.7 lb/gal;

(E) End Sealing Compound for fatty foods 3.7 lb/gal.

(b) Fabric Coating 2.9 lb/gal;

(c) Vinyl Coating 3.8 lb/gal;

(d) Paper Coating 2.9 lb/gal;

(e) Existing Coating of Paper and Film in the Medford-Ashland AQMA 55 lb.*

[NOTE: *55 lb VOC per 1000 sq. yds. of material per pass.]

(f) Auto and Light Duty Truck Coating:

(A) Prime 1.9 lb/gal;

(B) Topcoat 2.8 lb/gal;

(C) Repair 4.8 lb/gal.

(g) Metal Furniture Coating 3.0 lb/gal;

(h) Magnet Wire Coating 1.7 lb/gal;

(i) Large Appliance Coating 2.8 lb/gal;

(j) Miscellaneous Metal Parts and Products:

(A) Clear Coatings 4.3 lb/gal;

(B) Force Air Dried or Air Dried 3.5 lb/gal;

(C) Extreme Performance Coatings 3.5 lb/gal;

(D) Other Coatings (i.e., Powder, oven dried) 3.0 lb/gal;

(E) High Performance Architectural Coatings 3.5 lb/gal.

(6) Compliance Determination: Compliance with this rule shall be determined by testing in accordance with **40 CFR Part 60 EPA Method 18, 24, 25**, a material balance method, or an equivalent plant specific method approved by and on file with the Department. The limit in section (1) of this rule of VOC in the coating is based upon an assumed solvent density, and other assumptions unique to a coating line; where conditions differ, such as a different solvent density, a plant specific limit developed pursuant to the applicable Control Technology Guideline document may be submitted to the Department for approval.

(7) Reduction Method: The emission limits of sections (3) and (5) of this rule shall be achieved by:

- (a) The application of low solvent content coating technology;
- (b) An incineration system which oxidizes at least 90.0 percent of the nonmethane volatile organic compounds entering the incinerator (VOC measured as total combustible carbon) to carbon dioxide and water; or
- (c) An equivalent means of VOC removal. The equivalent means must be approved by the Department and will be incorporated in the source's Air Contaminant Discharge Permit or Title V Permit, and shall not become effective until approved by EPA as a source-specific SIP revision. Other alternative emission controls approved by the Department and allowed by EPA may be used to provide an equivalent means of VOC removal.

(8) Recordkeeping Requirements:

(a) A current list of coatings shall be maintained which provides all the coating data necessary to evaluate compliance, including the following information, where applicable:

- (A) Coating catalyst and reducer used;
- (B) Mix ratio of components used;
- (C) VOC content of coating as applied; and
- (D) Oven temperature.

(b) Where applicable, a monthly record shall be maintained indicating the type and amount of solvent used for cleanup and surface preparation;

(c) Such records shall be retained and available for inspection by the Department for a period of two years.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; Section (5) Renumbered from 340-22-173; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0170.

~~340-022-0175~~232-0170

Aerospace Component Coating Operations

(1) No owner or operator of an aerospace component coating facility shall emit into the atmosphere volatile organic compounds in excess of the following limits, expressed as pounds VOC per gallon of coating applied, excluding water and exempt solvents, unless an alternative emission limit is approved by the Department pursuant to section (4) of this rule or emissions to the atmosphere are controlled to an equivalent level pursuant to section (10) of this rule:

- (a) Primer — 2.9 lb./gal.;
- (b) Interior Topcoat — 2.8 lb./gal.;
- (c) Electric or Radiation Effect Coating — 6.7 lb./gal.;
- (d) Extreme Performance Interior Topcoat — 3.5 lb./gal.;
- (e) Fire Insulation Coating — 5.0 lb./gal.;
- (f) Fuel Tank Coating — 6.0 lb./gal.;
- (g) High Temperature Coating* — 6.0 lb./gal.;
- (h) Sealant — 5.0 lb./gal.;
- (i) Self-Priming Topcoat — 3.5 lb./gal.;
- (j) Topcoat — 3.5 lb./gal.;
- (k) Pretreatment Wash Primer — 3.5 lb./gal.;
- (l) Sealant Bonding Primer — 6.0 lb./gal.;
- (m) Temporary Protective Coating — 2.1 lb./gal.

*(For conditions between 350° F. - 500° F.)

(2) ~~(Reserved)~~

(23) Exemptions: This rule does not apply to the following:

(a) The exterior of fully assembled airplanes painted out of doors, high temperature coatings (for conditions over 500° F.), adhesive bonding primer, flight test coatings, and space vehicle coatings;

(b) Sources whose potential emit from activities identified in section (1) of this rule before add on controls of volatile organic compounds are less than ten tons per year (or 3 lb. VOC/hr or 15 lb. VOC/day actual);

(c) The use of separate coating formulations in volumes of less than 20 gallons per calendar year. No source shall use more than a combined total of 250 gallons per calendar year of exempt coatings. Records of coating usage shall be maintained as per section (8) of this rule; or

(d) Sources used exclusively for chemical or physical analysis or determination of product quality and coating performance (such as research facilities and laboratories) unless:

(A) The operation of the source is an integral part of the production process; or

(B) The emissions from the source exceed 363 kilograms (800 pounds) in any calendar month.

(34) Exceptions:

(a) On a case-by-case basis, the Department may approve exceptions to the emission limits specified in section (1) of this rule, upon documentation by the source that an alternative emission limit would satisfy the federal criteria for reasonably available control technology (RACT);

(b) Included in this documentation must be a complete analysis of technical and economic factors which:

(A) Prevent the source from using both compliance coatings and pollution control equipment; and

(B) Justify the alternative emission limit sought by the source.

(c) The alternative emission limit approved by the Department shall be incorporated into the source's Air Contaminant Discharge Permit and shall not become effective until approved by EPA as a source-specific SIP revision.

(45) Applicability: This rule applies to each coating line, which includes the application area(s), flashoff area(s), air and force air drier(s), and oven(s) used in the surface coating of aerospace components in subsections (1)(a) through (m) of this rule. If more than one emission limitation in this rule applies to a specific coating, then the most stringent emission limitation shall be applied.

(56) Solvent Evaporation Minimization:

(a) Closed containers shall be used for the storage or disposal of cloth or paper used for solvent surface preparation and cleanup;

(b) Fresh and spent solvent shall be stored in closed containers;

(c) Organic compounds shall not be used for the cleanup of spray equipment unless equipment is used to collect the cleaning compounds and to minimize their evaporation;

(d) Containers of coating, catalyst, thinner, or solvent shall not be left open to the atmosphere when not in use.

(67) Stripper Limitations: No stripper shall be used which contains more than 400 grams/liter (3.3 lbs./gal.) of VOC or which has a true vapor pressure of 1.3 kPa (0.19 psia) at actual usage temperature.

(78) Maskant for Chemical Processing Limitation: No maskant shall be applied for chemical processing unless the VOC emissions from coating operations are reduced by 85 percent, or the coating contains less than 600 grams of VOC per liter (5.0 lbs./gal.) of coating excluding water, as applied.

(89) Compliance determination: Compliance with this rule shall be determined by testing in accordance with **40 CFR, Part 60, Appendix A**, Method 24 for determining the VOC content of the coating materials. Emissions from the coating processes and/or VOC emissions control efficiencies shall be determined by testing in accordance with **40 CFR, Part 60, Appendix A**, Method 18, 25, California Method ST-7, a material balance method, or an equivalent plant specific method approved by EPA and the Department and on file with the Department. The limit in section (1) of this rule of VOC in the coating is based upon an assumed solvent density, and other assumptions unique to a coating line; where conditions differ, such as a different solvent density, a plant specific limit may be submitted to the Department and EPA for approval.

(940) Reduction Method: The emission limits of section (1) of this rule shall be achieved by:

(a) The application of a low solvent content coating technology;

(b) A vapor collection and disposal system; or

(c) An equivalent means of VOC removal. The equivalent means must be approved by the Department and will be incorporated in the source's Air Contaminant Discharge Permit or Title V Operating Permit, and shall not become effective until approved by EPA as a source-specific SIP revision. Other alternative emission controls approved by the Department and allowed by EPA may be used to provide an equivalent means of VOC removal.

(104) Recordkeeping Requirements:

(a) A current list of coatings shall be maintained which provides all of the coating data necessary to evaluate compliance, including the following information, where applicable:

(A) A daily record indicating the mix ratio of components used; and

(B) The VOC content of the coating as applied.

(b) A monthly record shall be maintained indicating the type and amount of solvent used for cleanup and surface preparation;

(c) A monthly record shall be maintained indicating the amount of stripper used;

(d) Such records shall be retained and available for inspection by the Department for a period of two years.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0175.

340-022-0180

Degreasers

Cold cleaners, open top vapor degreasers, and conveyORIZED degreasers are exempt from this rule if they use fluids which are not photochemically reactive. These fluids are defined in the definition of Volatile Organic Compound (VOC) under OAR 340-022-0102:

(1) The owner or operator of dip tank cold cleaners shall comply with the equipment specifications in this section:

(a) Be equipped with a cover that is readily opened and closed. This is required of all cold cleaners, whether a dip tank or not;

(b) Be equipped with a drainrack, suspension basket, or suspension hoist that returns the drained solvent to the solvent bath;

(c) Have a freeboard ratio of at least 0.5;

(d) Have a visible fill line.

(2) An owner or operator of a cold cleaner shall be responsible for following the required operating parameters and work practices. The owner shall post and maintain in the work area of each cold cleaner a pictograph or instructions clearly explaining the work practices in this section:

(a) The solvent level shall not be above the fill line;

(b) The spraying of parts to be cleaned shall be performed only within the confines of the cold cleaner;

(c) The cover of the cold cleaner shall be closed when not in use or when parts are being soaked or cleaned by solvent agitation;

(d) Solvent-cleaned parts shall be rotated to drain cavities or blind holes and then set to drain until dripping has stopped;

(e) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, such that no greater than 20 percent of the waste by weight can evaporate into the atmosphere. Handling of the waste must also be done in accordance with the Department's solid and Hazardous Waste Rules, OAR Chapter 340, Division 100.

(3) The owner or operator shall maintain cold cleaners in good working condition and free of solvent leaks.

(4) If the solvent has a volatility greater than 2.0 kPa (0.3 psi) measured at 38° C. (100° F.), or if the solvent is agitated or heated, then the cover must be designed so that it can be easily operated with one hand or foot.

(5) If the solvent has a volatility greater than 4.3 kPa (0.6 psi) measured at 38° C. (100° F.), then the drainage facility must be internal, so that parts are enclosed under the cover while draining. The drainage facility may be external for applications where an internal type cannot fit into the cleaning system.

(6) If the solvent has a volatility greater than 4.3 kPa (0.6 psi) measured at 38° C. (100° F.), or if the solvent is heated above 50° C. (120° F.), then one of the following solvent vapor control systems must be used:

(a) The freeboard ratio must be equal to or greater than 0.70; or

(b) Water must be kept over the solvent, which must be insoluble in and heavier than water; or

(c) Other systems of equivalent control, such as a refrigerated chiller.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0180.

340-022-0183232-0190

Open Top Vapor Degreasers

- (1) The owner or operator of all open top vapor degreasers shall comply with the following equipment specifications:
- (a) Be equipped with a cover that may be readily opened and closed. When a degreaser is equipped with a lip exhaust, the cover shall be located below the lip exhaust. The cover shall move horizontally or slowly so as not to agitate and spill the solvent vapor. The degreaser shall be equipped with at least the following three safety switches:
 - (A) Condenser flow switch and thermostat to shut off sump heat if coolant is either not circulating or too warm;
 - (B) Spray safety switch to shut off spray pump or conveyor if the vapor level drops excessively, (e.g., greater than 10 cm (4 inches));
 - (C) Vapor level control thermostat to shut off sump heat when vapor level rises too high.
 - (b)(A) A closed design such that the cover opens only when the part enters or exits the degreaser and when the degreaser starts up, forming a vapor layer, the cover may be opened to release the displaced air, and either:
 - (B) A freeboard ratio equal to or greater than 0.75; or
 - (C) A freeboard, refrigerated or cold water, chiller.
 - (c) Post a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:
 - (A) Do not degrease porous or absorbent materials such as cloth, leather, wood or rope;
 - (B) The cover of the degreaser should be closed at all times except when processing workloads;
 - (C) When the cover is open the lip of the degreaser should not be exposed to steady drafts greater than 15.3 meters per minute (50 feet/minute);
 - (D) Rack parts so as to facilitate solvent drainage from the parts;
 - (E) Workloads should not occupy more than one-half of the vapor-air interface area;
 - (F) When using a powered hoist, the vertical speed of parts in and out of the vapor zone should be less than 3.35 meters per minute (11 feet/minute);
 - (G) Degrease the workload in the vapor zone until condensation ceases;
 - (H) Spraying operations should be done within the vapor layer;
 - (I) Hold parts in the degreaser until visually dry;
 - (J) When equipped with a lip exhaust, the fan should be turned off when the cover is closed;
 - (K) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser;
 - (L) Water shall not be visible in the solvent stream from the water separator.
 - (2) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.
 - (3) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leakproof couplings.
 - (4) Still and sump bottoms shall be kept in closed containers.
 - (5) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, such that no greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. Handling of the waste must also be done in accordance with the Department's Solid and Hazardous Waste Rules, OAR Chapter 340, Division 100.

(6) Exhaust ventilation shall not exceed $20 \text{ m}^3/\text{minute per m}^2$ (65 cfm per foot²) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans shall not be used near the degreaser opening.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0183.

340-022-0186232-0200

Conveyorized Degreasers

(1) The owner or operator of conveyorized cold cleaners and conveyorized vapor degreasers shall comply with the following operating requirements:

(a) Exhaust ventilation should not exceed 20 cubic meters per minute of square meter (65 cfm per foot²) of degreaser opening, unless necessary to meet OSHA requirements. Workplace fans should not be used near the degreaser opening;

(b) Post in the immediate work area a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:

(A) Rack parts for best drainage;

(B) Maintain vertical speed of conveyed parts to less than 3.35 meters per minute (11 feet/minute);

(C) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.

(2) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.

(3) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leakproof couplings.

(4) Still and sump bottoms shall be kept in closed containers.

(5) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, such that no greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. Handling of the waste must also be done in accordance with the Department's Solid and Hazardous Waste Rules, OAR Chapter 340, Division 100.

(6) All conveyORIZED cold cleaners and conveyORIZED vapor degreasers with air/vapor interfaces of 2.0 m² or greater shall have one of the following major control devices installed and operating:

(a) Carbon adsorption system, exhausting less than 25 ppm of solvent averaged over a complete adsorption cycle, based on exhaust ventilation of 15 m³/minutes per m² of air/vapor area, when down-time covers are open; or

(b) Refrigerated chiller with control effectiveness equal to or better than subsection (a) of this section; or

(c) A system with control effectiveness equal to or better than subsection (a) of this section.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0186.

340-022-0190232-0210

Asphaltic and Coal Tar Pitch Used for Roofing Coating

(1) No person shall operate or use equipment for melting, heating or holding asphalt or coal tar pitch for the on-site construction, installation, or repair of roofs unless the gas-entrained effluents from such equipment are contained by close fitting covers.

(2) A person operating equipment subject to this rule shall maintain the temperature of the asphaltic or coal tar pitch below 285° C. (550° F.), or 17° C. (30° F.) below the flash point whichever is the lower temperature, as indicated by a continuous reading thermometer.

(3) The provisions of this rule shall not apply to equipment having a capacity of 100 liters (26 gallons) or less; or to equipment having a capacity of 600 liters (159 gallons) or less provided it is equipped with a tightly fitted lid or cover.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0190.

340-022-0200232-0220

Flat Wood Coating

(1) This rule applies to all flat wood manufacturing and surface finishing facilities, that manufacture the following products:

(a) Printed interior panels made of hardwood plywood and thin particle board;

(b) Natural finish hardwood plywood panels; or

(c) Hardboard paneling with Class II finishes.

(2) This rule does not apply to the manufacture of exterior siding, tileboard, particle board used as a furniture component, or paper or plastic laminates on wood or wood-derived substrates.

(3) No owner or operator of a flat wood manufacturing facility subject to this rule shall emit volatile organic compounds from a coating application system in excess of:

(a) 2.9 kg per 100 square meters of coated finished product (6.0 lb./1,000 square feet) from printed interior panels, regardless of the number of coats applied;

(b) 5.8 kg per 100 square meters of coated finished product (12.0 lb./1,000 square feet) from natural finish hardwood plywood panels, regardless of the number of coats applied; and

(c) 4.8 kg per 100 square meters of coated finished product (10.0 lb./1,000 square feet) from Class II finishes on hardboard panels, regardless of the number of coats applied.

(4) The emission limits in section (3) of this rule shall be achieved by:

(a) The application of low solvent content coating technology; or

(b) An incineration system which oxidizes at least 90.0 percent of the nonmethane volatile organic compounds entering the incinerator (VOC measured as total combustible carbon) to carbon dioxide and water; or

(c) An equivalent means of VOC removal. The equivalent means must be approved in writing by the Department. The time period used to determine equivalency shall not exceed 24 hours.

(5) A capture system must be used in conjunction with the emission control systems in subsections (4)(b) and (c) of this rule. The design and operation of a capture system must be consistent with good engineering practice and shall be required to provide for an overall emission reduction sufficient to meet the emission limitations in section (3) of this rule.

(6) Compliance Demonstration:

(a) The owner or operator of a volatile organic compound source required to comply with this rule shall demonstrate compliance by the methods of subsection (c) of this section, or an alternative method approved by the Department;

(b) A person proposing to conduct a volatile organic compound emissions test shall notify the Department of the intent to test not less than 30 days before the proposed initiation of the tests so the Department may observe the test;

(c) Test procedures in **40 CFR, Part 60, EPA Method 18, 24, or 25** shall be used to determine compliance with section (3) of this rule;

(d) The Department may accept, instead of the coating analysis required by paragraph (c)(A) of this section, a certification by the coating manufacturer of the composition of the coating, if supported by actual batch formulation records. In the event of any inconsistency between a Method 18, 24, or 25 test and a facility's formulation data, the Method 18, 24, or 25 test will govern;

(e) If add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating:

(A) Exhaust gas temperature of all incinerators;

(B) Temperature rise across a catalytic incinerator bed; and

(C) Breakthrough of VOC on a carbon absorption unit.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 23-1980, f. & ef. 9-26-80; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0200.

340-022-0210232-0230

Rotogravure and Flexographic Printing

(1) No owner or operator of a packaging rotogravure, publication rotogravure, flexographic or specialty printing facility, with the potential to emit greater than 90 mg/year (100 ton/year), employing ink containing solvent may operate, cause, allow or permit the operation of the press unless:

(a) The volatile fraction of ink, as it is applied to the substrate contains 25.0 percent by volume or less of organic solvent and 75 percent by volume or more of water; or

(b) The ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more nonvolatile material; or

(c) The owner or operator installs and operates:

(A) A carbon absorption system which reduces the volatile organic emissions from the capture system by at least 90.0 percent by weight;

(B) An incineration system which oxidizes at least 90.0 percent of the nonmethane volatile organic compounds (VOC measured as total combustible carbon) to carbon dioxide and water; or

(C) An alternative volatile organic compound emissions reduction system demonstrated to have at least a 90.0 percent reduction efficiency, measured across the control system, and has been approved by the Department.

(2) A capture system must be used in conjunction with the emission control systems in subsection (1)(c) of this rule. The design and operation of a capture system must be consistent with good engineering practice, and shall be required to provide for an overall reduction in volatile organic compound emissions of at least:

(a) 75.0 percent where a publication rotogravure process is employed;

(b) 65.0 percent where a packaging rotogravure process is employed; or

(c) 60.0 percent where a flexographic printing process is employed.

(3) Compliance Demonstration:

(a) Upon request of the Department, the owner or operator of a volatile organic compound source shall demonstrate compliance by the methods of this section or an alternative method approved by the Department. All tests shall be made by, or under the direction of, a person qualified by training and/or experience in the field of air pollution testing;

(b) A person proposing to conduct a volatile organic compound emissions test shall notify the Department of the intent to test not less than 30 days before the proposed initiation of the tests so the Department may observe the test. The notification shall contain the information required by, and be in a format approved by, the Department;

(c) Test procedures to determine compliance with this rule must be approved by the Department and consistent with:

(A) EPA test Method 18, 24, or 25, **40 CFR, Part 60**; or California Method ST-7;

(B) The Department may accept, instead of ink-solvent analysis, a certification by the ink manufacturer of the composition of the ink-solvent, if supported by actual batch formulation records. In the event of any inconsistency between an EPA Method test and a facility's formulation data, the EPA Method test will govern.

(d) If add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating:

(A) Exhaust gas temperature of all incinerators;

(B) Breakthrough of VOC on a carbon adsorption unit; and

(C) Temperature rise across a catalytic incinerator bed.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0210.

340-022-0220232-0240

Perchloroethylene Dry Cleaning

(1) The owner or operator of a perchloroethylene dry cleaning facility shall:

(a) Vent the entire dryer exhaust through a properly functioning carbon adsorption system or equally effective control device;

(b) Emit no more than 100 ppmv of volatile organic compounds from the dryer control device before dilution;

(c) Immediately repair all components found to be leaking liquid volatile organic compounds;

(d) Cook or treat all diatomaceous earth filters so that the residue contains 25 kg or less of volatile organic compounds per 100 kg of wet waste material;

(e) Reduce the volatile organic compounds from all solvent stills to 60 kg or less per 100 kg of wet waste material;

(f) Drain all filtration cartridges, in the filter housing, for at least 24 hours before discarding the cartridges;

(g) When possible, dry all drained cartridges without emitting volatile organic compounds to the atmosphere;

(h) Any other filtration or distillation system can be used if equivalency is demonstrated. Any system reducing waste losses below 1 kg solvent per 100 kg clothes cleaned will be considered equivalent. For dry-to-dry configuration units, the following shall apply in lieu of subsections (1)(a) and (b) of this rule:

(A) The dryer/condenser system must be closed to the atmosphere at all times except when articles are being loaded or unloaded through the door of the machine;

(B) The dryer/condenser system must not vent to the atmosphere until the air-vapor stream temperature on the outlet side of the refrigerated condenser is equal to or less than 45° F.

(2) Exemptions: The requirements of subsections (1)(a) and (b) of this rule are not applicable to:

(a) Coin-operated facilities;

(b) Facilities where an absorber or other necessary control equipment cannot be accommodated because of inadequate space; or

(c) Facilities with insufficient steam capacity to desorb absorbers.

(3) Compliance Demonstration: Compliance to this rule shall be demonstrated as follows:

(a) Compliance with subsections (1)(a), (f), and (g) of this rule shall be determined by means of a visual inspection;

(b) Compliance with subsection (1)(c) of this rule shall be determined by means of a visual inspection of the following components:

(A) Hose connections, unions, couplings and valves;

(B) Machine door gaskets and seatings;

(C) Filter head gasket and seating;

(D) Pumps;

(E) Base tanks and storage containers;

(F) Water separators;

(G) Filter sludge recovery;

(H) Distillation unit;

(I) Diverter valves;

(J) Saturated lint from lint basket; and

(K) Cartridge filters.

(c) Compliance with subsection (1)(b) of this rule shall be determined by:

(A) A test consistent with EPA Guideline Series document, "**Measurement of Volatile Organic Compounds**", EPA-450/2-78-041 and in accordance with EPA Method 23 "Determination of Halogenated Organics from Stationary Sources" (proposed 43 FR 39766, June 11, 1980); or

(B) The proper installation, operation, and maintenance of equipment which has been demonstrated to be adequate to meet the emission limits of 100 ppmv.

(d) Compliance with subsections (1)(d) and (e) of this rule shall be determined by means of the procedure in the "**Standard Test Method for Gasoline Diluent in Used Gasoline Engine Oils by Distillation**", ANSI/ASTM D322.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0220.

DIVISION 25234

EMISSION STANDARDS FOR WOOD PRODUCTS INDUSTRIES

SPECIFIC INDUSTRIAL STANDARDS

[ED. NOTE: Administrative Order DEQ 37 repealed applicable portions of SA 22, filed 6-7-68.]

~~[ED. NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047 with the exception of OAR 340-025-0055 thru 340-025-0070 and 340-025-0450 thru 340-025-0805.]~~

340-025-0005234-0010

Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division. As used in OAR 340-025-0005 through 340-025-0025:

~~340-025-0220(1)(1)~~ "Acid Absorption Tower" means the device where the sodium carbonate and sulfur dioxide react to form a sodium sulfite solution prior to use as the cooking liquor.

~~340-025-0350(1)(2)~~ "Acid Plant" means the facility in which the cooking liquor is either manufactured or fortified when not associated with a recovery furnace.

~~340-025-0350(2)(4)~~ "Average Daily Emission" means the total weight of sulfur oxides emitted in each month divided by the number of days of production that month.

~~340-025-0350(3)(5)~~ "Average Daily Production" means air dry tons of unbleached pulp produced in a month, divided by the number of days of production in that month.

~~340-025-0305(1)(6)~~ "Average Operating Opacity" means the opacity of emissions determined using EPA Method 9 on any three days within a 12-month period which are separated from each other by at least 30 days; a violation of the average operating opacity limitation is judged to have occurred if the opacity of emissions on each of the three days is greater than the specified average operating opacity limitation.

~~340-025-0305(2)(7)~~ "Baseline emissions rate" means a source's actual emissions rate during the baseline period, as defined in OAR 340-028-0110200-0020, expressed as pounds of emissions per thousand square feet of finished product, on a 1/8" basis.

~~340-025-0350(4)(8)~~ "Blow System" means the storage chest, tank, or pit to which the digester pulp is discharged following the cook.

~~340-025-0150(1)(9)~~ "BLS" means Black Liquor Solids, dry weight.

~~340-025-0220 (2) "BLS" means black liquor solids, dry weight.~~

~~340-025-0150(2)(10)~~ "Continual Monitoring"

~~(a) as used in OAR 340-234-0200 through 340-234-0350 means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emission levels or concentrations on an ongoing basis;~~

~~340-025-0220 (3) "Continual Monitoring" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emission levels or concentrations on an ongoing basis.~~

~~340-025-0350 (5) "Continual Monitoring"(b) as used in OAR 340-234-0400 through 340-234-0430 means sampling and analysis in a continuous or timed sequence, using techniques which will adequately reflect actual emission levels, ambient air levels, or concentrations on a continuous basis.~~

~~340-025-0150(3)(11)~~ "Continuous monitoring" means instrumental sampling of a gas stream on a continuous basis, excluding periods of calibration.

~~340-025-0220 (4) "Continuous Monitoring" means instrumental sampling of a gas stream on a continuous basis, excluding periods of calibration.~~

~~340-025-0005(1)(12)~~ "Continuous-Flow Conveying Methods" means methods which transport materials at uniform rates of flow, or at rates generated by the production process.

~~340-025-0150(4)(13)~~ "Daily Arithmetic Average" means the average concentration over the twenty-four hour period in a calendar day, or Department approved equivalent period, as determined by continuous monitoring equipment or reference method testing. Determinations based on EPA reference methods or equivalent methods in accordance with the Department

Source Sampling Manual consist of three separate consecutive runs having a minimum sampling time of sixty minutes each and a maximum sampling time of eight hours each. The three values for concentration (ppm or grains/dscf) are averaged and expressed as the daily arithmetic average which is used to determine compliance with process weight limitations, grain loading or volumetric concentration limitations and to determine daily emission rate.

~~340-025-0220 (5) "Daily Arithmetic Average" means the average concentration over the 24-hour period in a calendar day or, Department approved equivalent period, as determined by continuous monitoring equipment or reference method testing. Determinations based on EPA reference methods or equivalent methods in accordance with the Department Source Sampling Manual consist of three (3) separate consecutive runs having a minimum sampling time of sixty (60) minutes each and a maximum sampling time of eight (8) hours each. The three values for concentration (ppm or grains/dscf) are averaged and expressed as the daily arithmetic average which is used to determine compliance with process weight limitations, grain loading or volumetric concentration limitations and to determine daily emission rate.~~

340-025-0150(5)(14) "Department" means the Department of Environmental Quality.

~~340-025-0350 (6) "Department" means the Department of Environmental Quality.~~

~~340-025-0220 (6) "Department" means the Department of Environmental Quality.~~

~~340-025-0305 (3) "Department" means Department of Environmental Quality.~~

340-025-0150(6)(15) "Emission" means a release into the atmosphere of air contaminants.

~~340-025-0220 (7) "Emission" means a release into the atmosphere of air contaminants.~~

~~340-025-0305 (4) "Emission" means a release into the outdoor atmosphere of air contaminants.~~

340-025-0305(5)(16) "EPA Method 9" means the method for Visual Determination of the Opacity of Emissions From Stationary Sources described as Method 9 (average of 24 consecutive observations) in the Department Source Sampling Manual (January, 1992).

340-025-0305(6)(17) "Fuel Moisture Content by Weight Greater Than 20 Percent" means bark, hogged wood waste, or other wood with an average moisture content of more than 20 percent by weight on a wet basis as used for fuel in the normal operation of a wood-fire veneer dryer as measured by ~~ASTMD4442-84~~ during compliance source testing.

~~340-025-0305 (7) "Fuel Moisture Content by Weight Less Than 20 Percent" means pulverized ply trim, sander dust, or other wood with an average moisture content of 20 percent or less by weight on a wet basis as used for fuel in the normal operation of a wood-fired veneer dryer as measured by ~~ASTM-D4442-84~~ during compliance source testing.~~

340-025-0305(8)(18) "Fugitive Emissions" means dust, fumes, gases, mist, odorous matter, vapors or any combination thereof not easily given to measurement, collection, and treatment by conventional pollution control methods.

340-025-0305(9)(19) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

340-025-0150(7)(20) "Kraft Mill" or "Mill" means any industrial operation which uses for a cooking liquor an alkaline sulfide solution containing sodium hydroxide and sodium sulfide in its pulping process.

340-025-0150(8)(21) "Lime Kiln" means any production device in which calcium carbonate is thermally converted to calcium oxide.

340-025-0305(10)(22) "Maximum Opacity" means the opacity as determined by EPA Method 9 (average of 24 consecutive observations).

340-025-0005(2)(23) "Modified Wigwam Waste Burner" means a device having the general features of a wigwam waste burner, but with improved combustion air controls and other improvements installed in accordance with design criteria approved by the Department.

340-025-0220(8)(24) "Neutral Sulfite Semi-Chemical (NSSC) Pulp Mill" means any industrial operation which uses for cooking, a liquor prepared from a sodium carbonate solution and sulfur dioxide at a neutral pH, range 6-8.

340-025-0150(9)(25) "Non-Condensibles" mean gases and vapors, contaminated with TRS compounds, from the digestion and multiple-effect evaporation processes of a mill.

340-025-0005(3)(26) "Opacity" means the degree to which an emission reduces transmission of light or obscures the view of an object in the background.

~~340-025-0305 (11) "Opacity" means the degree to which an emission reduces transmission of light or obscures the view of an object in the background.~~

340-025-0305(12)(27) "Operations" includes plant, mill, or facility.

340-025-0150(10)(28) "Other Sources"

(a) as used in OAR 340-234-0200 though 340-234-0270 means sources of TRS emissions in a kraft mill other than recovery furnaces and lime kilns, including but not limited to:

(aA) Vents from knotters, brown stock washing systems, evaporators, blow tanks, blow heat accumulators, black liquor storage tanks, black liquor oxidation system, pre-steaming vessels, tall oil recovery operations; and

(bB) Any vent which is shown to contribute to an identified nuisance condition.

~~340-025-0350 (7)~~ "Other Sources" (b) as used in OAR 340-234-0400 through 340-234-0430 means sources of sulfur oxide emissions including, but not limited to washers, washer filtrate tanks, digester dilution tanks, knotters, multiple effect evaporators, storage tanks, any operation connected with the handling of condensate liquids or storage of condensate liquids, and any vent or stack which may be a significant contributor of sulfur oxide gases other than those mentioned in emission standard limitations (OAR 340-025-0360/234-0410).

~~340-025-0305(13)~~(29) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

~~340-025-0150(1130)~~ "Particulate Matter"

(a) as used in OAR 340-234-0200 through 340-234-0350 means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured by EPA Method 5 or an equivalent test method in accordance with the Department **Source Sampling Manual**. Particulate matter emission determinations by EPA Method 5 shall use water as the cleanup solvent instead of acetone, and consist of the average of three separate consecutive runs having a minimum sampling time of 60 minutes each, a maximum sampling time of eight hours each, and a minimum sampling volume of 31.8 dscf each;

~~340-025-0220 (9)~~ "Particulate Matter" means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured by EPA Method 5 or an equivalent test method in accordance with the Department **Source Sampling Manual**. Particulate matter emission determinations by EPA Method 5 shall use water as the cleanup solvent instead of acetone, and consist of the average of three (3) separate consecutive runs having a minimum sampling time of 60 minutes each, a maximum sampling time of eight (8) hours each, and a minimum sampling volume of 31.8 dscf each.

~~340-025-0350 (8)~~ "Particulate Matter" (b) as used in OAR 340-234-0400 through 340-234-0430 means a small, discrete mass of solid matter, including the solids dissolved or suspended in liquid droplets but not including uncombined water;

~~340-025-0305 (14)~~ "Particulate Matter" (c) as used in OAR 340-234-0500 through 340-234-0530 means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured in accordance with the Department **Source Sampling Manual (January, 1992)**. Particulate matter emission determinations shall consist of the average of three separate consecutive runs. For sources tested using DEQ Method 7, each run shall have a minimum sampling time of one-hour, a maximum sampling time of eight hours, and a minimum sampling volume of 31.8 dscf. For sources tested using DEQ Method 8, each run shall have a minimum sampling time of 15 minutes and shall collect a minimum particulate sample of 100 mg. Veneer dryers, wood particle dryers, fiber dryers and press/cooling vents shall be tested with DEQ Method 7; and air conveying systems shall be tested with DEQ Method 8.

~~340-025-0150(12)~~(31) "Parts Per Million (ppm)" means parts of a contaminant per million parts of gas by volume on a dry-gas basis (1 ppm equals 0.0001% by volume).

~~340-025-0220 (10)~~ "Parts Per Million (ppm)" means parts of a contaminant per million parts of gas by volume on a dry-gas basis (one ppm equals 0.0001 percent by volume).

~~340-025-0305(15)~~(32) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

~~340-025-0305(16)~~(33) "Plywood" means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.

~~340-025-0305(17)~~(34) "Press/Cooling Vent" means any opening through which particulate and gaseous emissions from plywood, particleboard, or hardboard manufacturing are exhausted, either by natural draft or powered fan, from the building housing the process. Such openings are generally located immediately above the board press, board unloader, or board cooling area.

~~340-025-0150(13)~~(35) "Production"

(a) as used in OAR 340-234-0200 through 340-234-0270 means the daily amount of air-dried unbleached pulp, or equivalent, produced during the 24-hour period each calendar day, or Department approved equivalent period, and expressed in air-dried metric tons (admt) per day. The corresponding English unit is air-dried tons (adt) per day;

~~340-025-0220 (11)~~ "Production" (b) as used in OAR 340-234-0300 through 340-234-0350 means the daily amount of virgin air-dried unbleached NSSC pulp, or equivalent, produced during the 24-hour period each calendar day, or Department approved equivalent period, expressed in air-dried metric tons (ADMT) per day. The corresponding English unit is air-dried tons (ADT) per day.

~~340-025-0150(14)(36)~~ "Recovery Furnace" means the combustion device in which dissolved wood solids are incinerated and pulping chemicals recovered from the molten smelt. For OAR ~~340-025-0150~~234-0200 through ~~340-025-0205~~234-0270, and where present, this term shall include the direct contact evaporator.

~~340-025-0350(9)(37)~~ "Recovery System" means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, and storage facilities associated with the recovery cycle.

~~340-025-0150(15)(38)~~ "Significant Upgrading of Pollution Control Equipment" means a modification or a rebuild of an existing pollution control device for which a capital expenditure of 50 percent or more of the replacement cost of the existing device is required, other than ongoing routine maintenance.

~~340-025-0150(16)(39)~~ "Smelt dissolving tank vent" means the vent serving the vessel used to dissolve the molten smelt produced by the recovery furnace.

~~340-025-0305(18)(40)~~ "Special Problem Area" means the formally designated Portland, Eugene-Springfield, and Medford AQMAs and other specifically defined areas that the Environmental Quality Commission may formally designate in the future. The purpose of such designation will be to assign more stringent emission limits as may be necessary to attain and maintain ambient air standards or to protect the public health or welfare.

~~340-025-0220(12)(41)~~ "Spent Liquor Incinerator" means the combustion device in which pulping chemicals are subjected to high temperature to evaporate the water, incinerate organics and reclaim the sodium sulfate (saltcake) and sodium carbonate.

~~340-025-0150(17)(42)~~ "Standard Dry Cubic Meter" means the amount of gas that would occupy a volume of one cubic meter, if the gas were free of uncombined water, at a temperature of 20° C. (68° F.) and a pressure of 760 mm of mercury (29.92 inches of mercury). The corresponding English unit is standard dry cubic foot. When applied to recovery furnace gases "standard dry cubic meter" requires adjustment of the gas volume to that which would result in a concentration of 8% oxygen if the oxygen concentration exceeds 8%. When applied to lime kiln gases "standard dry cubic meter" requires adjustment of the gas volume to that which would result in a concentration of 10% oxygen if the oxygen concentration exceeds 10%. The mill shall demonstrate that oxygen concentrations are below noted values or furnish oxygen levels and corrected pollutant

~~ata.~~
~~340-025-0220(13)~~ "Standard Dry Cubic Meter" means the amount of gas that would occupy a volume of one cubic meter, if the gas were free of uncombined water, at a temperature of 20° C. (68° F.) and a pressure of 760 mm of mercury.

~~340-025-0305(19)(43)~~ "Tempering Oven" means any facility used to bake hardboard following an oil treatment process.

~~340-025-0350(10)(44)~~ "Sulfite Mill" or "Mill" means a pulp mill producing cellulose pulp using a cooking liquor consisting of sulfurous acid and/or a bisulfite salt.

~~340-025-0350(11)(45)~~ "Sulfur Oxides" means sulfur dioxide, sulfur trioxide, and other sulfur oxides.

~~340-025-0150(18)(46)~~ "Total Reduced Sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H₂S).

~~340-025-0220(14)~~ "Total Reduced Sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H₂S).

~~340-025-0350(12)~~ "Total Reduced Sulfur (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and other organic sulfides present expressed as hydrogen sulfide (H₂S).

~~340-025-0305(20)(47)~~ "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

~~340-025-0005(4)(48)~~ "Wigwam Waste Burner" means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for incineration of wastes.

~~340-025-0305(21)(49)~~ "Wood Fired Veneer Dryer" means a veneer dryer which is directly heated by the products of combustion of wood fuel in addition to or exclusive of steam or natural gas or propane combustion.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0005, 340-025-0150, 340-025-0305, 340-025-0220, 340-025-0350.

Construction and Operation of Wigwam Waste Burners

340-025-0010234-0100

Statement of Policy and Applicability

(1) Policy. Recent technological and economic developments have enhanced the degree to which wood waste residues currently being disposed of in wigwam waste burners may be utilized or otherwise disposed of in ways not damaging to the environment. While recognizing that complete utilization of wood wastes is not presently possible in all instances, consistent with the economic and geographical conditions in Oregon, it is hereby declared to be the policy of the Environmental Quality Commission to:

- (1a) Encourage the complete utilization of wood waste residues.
- (2b) Phase out, wherever reasonably practicable, all disposal of wood waste residues by incineration.
- (3c) Require the modification of all wigwam waste burners to minimize air contaminant emissions.
- (4d) Require effective monitoring and reporting of wigwam waste burner operating conditions.

(2) Applicability. OAR 340-234-0100 through 340-234-0140 apply to the construction and operation of wigwam waste burners.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0010.

340-025-0015234-0110

Authorization to Operate a Wigwam Burner

(1) Operation of wigwam waste burners other than modified wigwam waste burners is prohibited without approval of the Department of Environmental Quality.

(2) Persons seeking authorization to modify a wigwam waste burner or establish a new wigwam waste burner shall request authorization by submitting a Notice of Construction and submitting plans in accordance with OAR 340-020-0025210-0200 and through 340-020-0030210-0220.

(3) Authorization to establish a modified waste burner installation shall not be approved unless it is demonstrated to the Department that:

(a) No feasible alternative to incineration of wood waste residues exists. In demonstrating this, the applicant shall provide a statement of the relative technical and economic feasibility of alternatives, including but not limited to: Utilization, off-site disposal and incineration in a boiler or incinerator other than a wigwam waste burner;

(b) The modified wigwam waste burner facility is to be constructed and operated in accordance with design criteria approved by the Department, and the emission standards set forth in OAR 340-025-0020234-0120.

(4) Authorization for establishment of a new modified wigwam waste burner in conjunction with the establishment of a new industrial facility or significant expansion of an existing facility shall not be granted without approval of the Department of Environmental Quality.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0015.

340-025-0020234-0120

Emission and Operation Standards for Wigwam Waste Burners

(1) No person shall cause, suffer, allow, or permit the emission of air contaminants into the atmosphere from any wigwam waste burner for a period or periods aggregating more than three minutes in any one-hour which is equal to or greater than 20 percent opacity.

(2) Resultant emissions notwithstanding, no person shall use a wigwam waste burner for the incineration of other than production process wood wastes. Such wood wastes shall be transported to the burner by continuous-flow conveying methods.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0020.

340-025-0025234-0130

Monitoring and Reporting

(1) A thermocouple and recording pyrometer or other approved temperature measurement and recording devices shall be installed and maintained on every modified wigwam waste burner.

(2) Exit gas temperature shall be recorded continuously using the installed pyrometer at all times when the burner is in operation.

(3) Records of temperature and burner operation, or summaries thereof, shall be submitted at such frequency as the Department may prescribe.

(4) In addition to temperature monitoring as prescribed above, in accordance with OAR 340-020-0035212-0110 and through 340-020-0040212-0160, the Department may require installation of visible emissions monitoring devices and subsequent reporting of data therefrom.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0025.

340-025-0027234-0140

Existing Administrative Agency Orders

(1) The provisions of OAR 340-025-0005234-0100 through 340-025-0020234-0120 and 340-025-0025234-0130(1) are in addition thereto and do not modify, amend, repeal, alter, postpone, or in any other manner affect any specific existing agency orders directed against specific parties or persons to abate air pollution.

(2) The provisions of OAR 340-025-0025234-0130(2) shall not be made applicable nor extend in any manner to any specific existing agency orders directed against specific parties or persons to abate air pollution.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: SA 30 f. 6-7-68, ef. 8-1-68; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-025-0080; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-025-0027.

Kraft Pulp Mills

[ED. NOTE: Administrative Order DEQ 50 repealed previous OAR 340-025-0155 through 340-025-0195 (consisting of SA 38, filed 4-4-69).]

340-025-0155234-0200

Statement of Policy and Applicability

(1) Policy. Recent technological developments have enhanced the degree of malodorous emission control possible for the kraft pulping process. While recognizing that complete malodorous and particulate emission control is not presently possible, consistent with the meteorological and geographical conditions in Oregon, it is hereby declared to be the policy of the Department to:

(1a) Require, in accordance with a specific program and time table for all sources at each operating mill, the highest and best practicable treatment and control of atmospheric emissions from kraft mills through the utilization of technically feasible equipment, devices, and procedures. Consideration will be given to the economic life of equipment, which when installed, complied with the highest and best practicable treatment requirement.

(1b) Require degrees and methods of treatment for major and minor emission points that will minimize emissions of odorous gases and eliminate ambient odor nuisances.

(3c) Require effective monitoring and reporting of emissions and reporting of other data pertinent to air quality or emissions. The Department will use these data in conjunction with ambient air data and observation of conditions in the surrounding area to develop and revise emission and ambient air standards, and to determine compliance therewith.

(4d) Encourage and assist the kraft pulping industry to conduct a research and technological development program designed to progressively reduce kraft mill emissions, in accordance with a definite program, including specified objectives and time schedules.

(2) Applicability. OAR 340-234-0200 through 340-234-0270 apply to existing and new kraft pulp mills.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047/200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0155.

340-025-0165/234-0210

Emission Limitations

(1) Emission of Total Reduced Sulfur (TRS):

(a) Recovery Furnaces:

(A) The emissions of TRS from each recovery furnace placed in operation before January 1, 1969, shall not exceed 10 ppm and 0.15 Kg/metric ton (0.30 lb./ton) of production as daily arithmetic averages;

(B) TRS emissions from each recovery furnace placed in operation after January 1, 1969, and before September 25, 1976, or any recovery furnace modified significantly after January 1, 1969, and before September 25, 1976, to expand production shall be controlled such that the emissions of TRS shall not exceed 5 ppm and 0.075 Kg/metric ton (0.150 lb./ton) of production as daily arithmetic averages.

(b) Lime Kilns. Lime kilns shall be operated and controlled such that emissions of TRS shall not exceed 20 ppm as a daily arithmetic average and 0.05 Kg/metric ton (0.10 lb./ton) of production as a daily arithmetic average. This subsection applies to those sources where construction was initiated prior to September 25, 1976;

(c) Smelt Dissolving Tanks:

(A) TRS emissions from each smelt dissolving tank shall not exceed 0.0165 gram/Kg BLS (0.033 lb./ton BLS) as a daily arithmetic average, except as provided in paragraph (B) of this subsection;

(B) Where an explosion hazard, which was in existence on March 26, 1989, exists and control is not practical or economically not feasible and adequate documentation of these conditions is provided to the Department, the affected smelt dissolving tank shall not exceed 0.033 gram/Kg BLS (0.066 lb./ton BLS) as a daily average.

(d) Non-Condensibles. Non-condensibles from digesters, multiple-effect evaporators and contaminated condensate stripping shall be continuously treated to destroy TRS gases by thermal incineration in a lime kiln or incineration device capable of subjecting the non-condensibles to a temperature of not less than 650° C. (1,200° F.) for not less than 0.3 second. An alternate device meeting the above requirements shall be available in the event adequate incineration in the primary device cannot be accomplished. Venting of TRS gases during changeover shall be minimized but in no case shall the time exceed one-hour;

(e) Other Sources:

(A) The total emission of TRS from other sources including, but not limited to, knotters and brown stock washer vents, brown stock washer filtrate tank vents, and black liquor oxidation vents shall not exceed 0.078 Kg/metric ton (0.156 lb./ton) of production as a daily arithmetic average;

(B) Miscellaneous Sources and Practices. If it is determined that sewers, drains, and anaerobic lagoons significantly contribute to an odor problem, a program for control shall be required.

(2) Particulate Matter:

(a) Recovery Furnaces. The emissions of particulate matter from each recovery furnace stack shall not exceed:

(A) 2.0 kilograms per metric ton (4.0 pounds per ton) of production as a daily arithmetic average;

(B) 0.30 gram per dry standard cubic meter (0.13 grain per dry standard cubic foot) as a daily arithmetic average; and

(C) Thirty-five percent opacity for a period or periods aggregating more than 30 minutes in any 180 consecutive minutes or more than 60 minutes in any 24 consecutive hours (excluding periods when the facility is not operating).

(b) Lime Kilns. The emissions of particulate matter from each lime kiln stack shall not exceed:

(A) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average;

- (B) 0.46 gram per dry standard cubic meter (0.20 grain per dry standard cubic foot) as a daily arithmetic average; and
- (C) The visible emission limitations in section (4) of this rule.
- (c) Smelt Dissolving Tanks. The emission of particulate matter from each smelt dissolving tank vent shall not exceed:
 - (A) A daily arithmetic average of 0.25 kilogram per metric ton (0.50 pound per ton) of production; and
 - (B) The visible emission limitations in section (4) of this rule.
- (d) Replacement or Significant Upgrading of existing particulate pollution control equipment after July 1, 1988 shall result in more restrictive standards as follows:
 - (A) Recovery Furnaces:
 - (i) The emission of particulate matter from each affected recovery furnace stack shall not exceed 1.00 kilogram per metric ton (2.00 pounds per ton) of production as a daily arithmetic average; and
 - (ii) 0.10 gram per dry standard cubic meter (0.044 grain per dry standard cubic foot) as a daily arithmetic average.
 - (B) Lime Kilns:
 - (i) The emission of particulate matter from each affected lime kiln stack shall not exceed 0.25 kilogram per metric ton (0.50 pound per ton) of production as a daily arithmetic average; and
 - (ii) 0.15 gram per dry standard cubic meter (0.067 grain per dry standard cubic foot) as a daily arithmetic average when burning gaseous fossil fuel; or
 - (iii) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average; and
 - (iv) 0.30 gram per dry standard cubic meter (0.13 grain per dry standard cubic foot) as a daily arithmetic average when burning liquid fossil fuel.
 - (C) Smelt Dissolving Tanks. The emissions of particulate matter from each smelt dissolving tank vent shall not exceed 0.15 kilogram per metric ton (0.30 pound per ton) of production as a daily arithmetic average.
- (3) Sulfur Dioxide (SO₂). Emissions of sulfur dioxide from each recovery furnace stack shall not exceed a three-hour arithmetic average of 300 ppm on a dry-gas basis except when burning fuel oil. The sulfur content of fuel oil used shall not exceed the sulfur content of residual and distillate oil established in OAR ~~340-022-0010~~228-0100(2) and ~~340-022-0015~~228-0110, respectively.
- (4) All kraft mill sources with the exception of recovery furnaces shall not exceed an opacity equal to or greater than 20 percent for a period exceeding three minutes in any one hour.
- (5) New Source Performance Standards. New or modified sources that commenced construction after September 24, 1976, are subject to each provision of this rule and the New Source Performance Standards, ~~OAR 340-025-0630~~40 CFR 60 subpart BB as adopted under OAR 340-238-0060, whichever is more stringent.

[NOTE: ~~Except for OAR 340-234-0210(1),~~ This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 137, f. & ef. 6-10-77; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0165.

340-025-0170234-0220

More Restrictive Emission Limits

The Department may establish more restrictive emission limits than the numerical emission standards contained in OAR ~~340-025-0165~~234-0210 and maximum allowable daily mill site emission limits in kilograms or pounds per day for an individual mill upon a finding by the Department that:

- (1) The individual mill is located or is proposed to be located in a special problem area or an area where ambient air standards are exceeded or are projected to be exceeded or where the emissions will have a significant air quality impact in an area where the standards are exceeded; or
- (2) An odor or nuisance problem has been documented at any mill, in which case the TRS emission limits may be reduced below the regulatory limits; or
- (3) Other rules which are more stringent apply.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 137, f. & ef. 6-10-77; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0170.

340-025-0175-234-0230

Plans and Specifications

Prior to construction of new kraft mills or modification of facilities affecting emissions at existing kraft mills, complete and detailed engineering plans and specifications for air pollution control devices and facilities and such other data as may be required to evaluate projected emissions and potential effects on air quality shall be submitted to and approved by the Department. All construction shall be in accordance with plans as approved in writing by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 137, f. & ef. 6-10-77; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0175.

340-025-0180234-0240

Monitoring

(1) General:

(a) The details of the monitoring program for each mill shall be submitted to and approved by the Department. This submittal shall include diagrams and descriptions of all monitoring systems, monitoring frequencies, calibration schedules, descriptions of all sampling sites, data reporting formats and duration of maintenance of all data and reports. Any changes that are subsequently made in the approved monitoring program shall be submitted in writing to the Department for review and approved in writing prior to change;

(b) All records associated with the approved monitoring program including, but not limited to, original data sheets, charts, calculations, calibration data, production records and final reports shall be maintained for a continuous period of at least two calendar years and shall be furnished to the Department upon request;

(c) All source test data; TRS and SO₂ concentrations (ppm), corrected for oxygen content, if required, that are determined by continuous monitoring equipment; and opacity as determined by continuous monitoring equipment or EPA Method 9 will be used to determine compliance with applicable emission standards. All continuous monitoring data, excluding the above, will be used to evaluate performance of emitting processes and associated control systems, and for the qualitative determination of plant site emissions.

(2) Total Reduced Sulfur (TRS). Each mill shall continuously monitor TRS in accordance with the following:

(a) The monitoring equipment shall determine compliance with the emission limits and reporting requirements established by OAR 340-025-0150234-0200 through 340-025-0205234-0270, and shall continuously sample and record concentrations of TRS;

(b) The sources monitored shall include, but are not limited to individual recovery furnaces, and lime kilns. All sources shall be monitored down-stream of their respective control equipment, in either the ductwork or the stack, in accordance with the Department **Continuous Monitoring Manual**;

(c) At least once per year, vents from other sources as required in OAR 340-025-0165234-0210(1)(e), Other Sources, shall be sampled to demonstrate the representativeness of the emission of TRS using EPA Method 16, 16A, 16B or continuous emission monitors. EPA methods shall consist of three separate consecutive runs of one-hour each in accordance with the Department **Source Sampling Manual**. Continuous emissions monitors shall be operated for three consecutive hours in accordance with the Department **Continuous Monitoring Manual**. All results shall be reported to the Department;

(d) Smelt dissolving tank vents shall be sampled for TRS quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.0124 gram/Kg BLS (0.025 lb./ton BLS) using EPA Method 16, 16A, 16B or continuous emission monitors. EPA methods shall consist of three separate consecutive runs of one-hour each in accordance with the Department **Source Sampling Manual**.

(3) Particulate Matter:

(a) Each mill shall sample the recovery furnace(s), lime kiln(s) and smelt dissolving tank vent(s) for particulate emissions in accordance with the Department **Source Sampling Manual**;

(b) Each mill shall provide continuous monitoring of opacity of emissions discharged to the atmosphere from each recovery furnace stack in accordance with the Department **Continuous Monitoring Manual**; or

(c) Where monitoring of opacity from each recovery furnace is not feasible, provide continuous monitoring of particulate matter from each recovery furnace using sodium ion probes in accordance with the Department **Continuous Monitoring Manual**;

(d) Recovery furnace particulate source tests shall be performed quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.225 gram/dscm (0.097 grain/dscf) for furnaces subject to OAR 340-025-0165234-0210(2)(a) or 0.075 gram/dscm (0.033 grain/dscf) for furnaces subject to OAR 340-025-0165234-0210(2)(d)(A);

(e) Lime kiln source tests shall be performed semi-annually;

(f) Smelt dissolving tank vent source tests shall be performed quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.187 kilogram per metric ton (0.375 pound per ton) of production.

(4) Sulfur Dioxide (SO₂). Representative sulfur dioxide emissions from each recovery furnace shall be determined at least once each month by the average of three one-hour source tests in accordance with the Department **Source Sampling Manual** or from continuous emission monitors. If continuous emission monitors are used, the monitors shall be operated for three consecutive hours in accordance with the Department **Continuous Monitoring Manual**.

(5) Combined Monitoring. The Department may allow the monitoring for opacity of a combination of more than one emission stream if each individual emission stream has been demonstrated with the exception of opacity to be in compliance with all the emission limits of OAR 340-025-0165234-0210. The Department may establish more stringent emission limits for the combined emission stream.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 137, f. & ef. 6-10-77; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0180.

340-025-0185234-0250

Reporting

Unless otherwise authorized or required by permit, data shall be reported by each mill for each calendar month by the fifteenth day of the subsequent calendar month as follows:

(1) Applicable daily average emissions of TRS gases expressed in parts per million of H₂S on a dry gas basis with oxygen concentrations, if oxygen corrections are required, for each source included in the approved monitoring program.

(2) Daily average emissions of TRS gases in pounds of total reduced sulfur per equivalent ton of pulp processed, expressed as H₂S, for each source included in the approved monitoring program.

(3) Three-hour average emission of SO₂ based on all samples collected in one sampling period from the recovery furnace(s), expressed as ppm, dry basis.

(4) All daily average opacities for each recovery furnace stack where transmissometers are utilized.

(5) All six-minute average opacities from each recovery furnace stack that exceeds 35 percent.

(6) Daily average kilograms of particulate per equivalent metric ton (pounds of particulate per equivalent ton) of pulp produced for each recovery furnace stack. Where transmissometers are not feasible, the mass emission rate shall be determined by alternative sampling conducted in accordance with OAR 340-025-0180234-0240(3)(c).

(7) The results of each recovery furnace particulate source test in grams per standard cubic meter (grains per dry standard cubic foot) and for the same source test period the hourly average opacity, where transmissometers are used, and the particulate monitoring record obtained in accordance with the approved or the alternate monitoring program in OAR 340-025-0180234-0240(3)(c);

(8) Unless otherwise approved in writing, all periods of non-condensable gas bypass shall be reported.

(9) Upset conditions shall be reported in accordance with OAR 340-025-0190234-0260(3).

(10) Each kraft mill shall furnish, upon request of the Department, such other pertinent data as the Department may require to evaluate the mill's emission control program.

(11) Monitoring data reported shall reflect actual observed levels corrected for oxygen, if required, and analyzer calibration.

(12) Oxygen concentrations used to correct pollutant data shall reflect oxygen concentrations at the point of measurement of pollutants.

(13) The Department shall be notified at least 15 days in advance of all scheduled reference method testing including all scheduled changes.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 137, f. & ef. 6-10-77; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0185.

340-025-0190234-0260

Upset Conditions

(1) Each mill shall report to the Department abnormal mill operations including control and process equipment maintenance, or unexpected upsets that result in emissions in excess of the regulatory or air contaminant discharge permit limits within one-hour, or when conditions prevent prompt notice, as soon as possible but no later than one-hour after the start of the next working day. The mill shall also take immediate corrective action to reduce emission levels to regulatory or permit levels.

(2) Upsets shall be reported in writing with an accompanying report on measures taken or to be taken to correct the condition and prevent its reoccurrence within five working days of each incident.

(3) Each mill shall report the cumulative duration in hours each month of the upsets reported in section (1) of this rule and classified as to:

(a) Recovery Furnace:

(A) TRS;

(B) Particulate.

(b) Lime Kiln:

(A) TRS;

(B) Particulate.

(c) Smelt Tank Particulate.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 137, f. & ef. 6-10-77; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0190.

340-025-0205234-0270

Chronic Upset Conditions

If the Department determines that an upset condition is chronic and correctable by installing new or modified process or control procedures or equipment, a program and schedule to effectively eliminate the deficiencies causing the upset conditions shall be submitted. Such reoccurring upset conditions causing emissions in excess of applicable limits may be subject to civil penalty or other appropriate action.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0205.

Neutral Sulfite Semi-Chemical (NSSC) Pulp Mills

340-234-0300

Applicability

OAR 340-234-0300 through 340-234-360 apply to existing and new neutral sulfite semi-chemical (NSSC) pulp mills.

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

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.:

340-025-0224234-0310

Emission Limitations

(1) Emission of Total Reduced Sulfur (TRS): Spent Liquor Incinerator. The emissions of TRS from any spent liquor incinerator stack shall not exceed 10 ppm and 0.07 gram/kg BLS (0.14 lb/ton BLS) as a daily arithmetic average.

(2) Particulate Matter: Spent Liquor Incinerator. The emissions of particulate matter from any spent liquor incinerator stack shall not exceed:

(a) 3.6 grams/kg BLS (7.2 lbs/ton BLS) as a daily arithmetic average in accordance with the Department **Source Sampling Manual**; and

(b) An opacity equal to or greater than 35 percent for a period exceeding 3 minutes in any one hour, excluding periods when the facility is not operating.

(3) Sulfur Dioxide (SO₂):

(a) Spent Liquor Incinerator. The emissions of sulfur dioxide from each spent liquor incinerator stack shall not exceed a 3-hr arithmetic average of 10 ppm on a dry gas basis;

(b) Acid Absorption Tower. The emissions of sulfur dioxide from the acid absorption tower stack shall not exceed 20 ppm as a 3-hr arithmetic average on a dry gas basis.

(4) All NSSC sources, with the exception of spent liquor incinerators, shall not exhibit an opacity equal to or greater than 20 percent for a period exceeding three (3) minutes in any one hour.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 025-0224.

40-025-0226-234-0320

More Restrictive Emission Limits

The Department may establish more restrictive emission limits than the numerical emission standards contained in OAR 340-025-0224234-0310 and maximum allowable daily mill site emission limits in kilograms or pounds per day, for an individual mill, upon a finding by the Department that:

(1) The individual mill is located or is proposed to be located in a special problem area or an area where ambient air standards are exceeded or are projected to be exceeded; or

(2) When an odor or nuisance problem has been documented at any mill the TRS emission limits may be reduced below the regulatory limits; or

(3) Other rules which are more stringent apply.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0226.

340-025-0228234-0330

Plans and Specifications

Prior to construction of new neutral sulfite semi-chemical (NSSC) pulp mills or modification of facilities affecting emissions at existing NSSC mills, complete and detailed engineering plans and specifications for air pollution control devices and facilities and such data as may be required to evaluate projected emissions and potential effects on air quality shall be submitted to and approved by the Department. All construction shall be in accordance with plans as approved in writing by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0228.

340-025-0230234-0340

Monitoring

(1) General:

(a) The details of the monitoring program for each mill shall be submitted to and approved by the Department. This submittal shall include diagrams and descriptions of all monitoring systems, monitoring frequencies, calibration schedules, descriptions of all sampling sites, data reporting formats and duration of maintenance of all data and reports. Any changes that are subsequently made in the approved monitoring program shall be submitted in writing to the Department for review and approved in writing prior to change;

(b) All records associated with the approved monitoring program including, but not limited to, original data sheets, charts, calculations, calibration data, production records and final reports shall be maintained for a period of at least two calendar years and shall be furnished to the Department upon request.

(2)(a) Total Reduced Sulfur (TRS). Each mill shall continuously monitor the spent liquor incinerator for TRS emissions using: continuous monitoring equipment, except where a vibration problem, which was in existence on March 26, 1989, exists and continuous monitoring equipment is not practical or economically feasible; in which case, upon documentation of the above condition, the spent liquor incinerator shall be sampled for TRS emissions using the reference method and the analytical method (EPA Method 16, 16A, or 16B) as outlined in the Department **Source Sampling Manual**;

(b) Spent liquor incinerator TRS source tests shall be performed quarterly except that testing may be semi-annual when the preceding six (6) source tests were less than 7.5 ppm;

(c) Flow rate measurements used to determine TRS mass emission rates shall be corrected for cyclonic flow, where applicable.

(3)(a) Particulate Matter. Each mill shall sample the spent liquor incinerator for particulate emissions with:

(A) The sampling method; and

(B) The analytical method specified in the Department **Source Sampling Manual**.

(b) Spent liquor incinerator particulate source tests shall be performed quarterly except that testing may be semi-annual when the preceding six (6) source tests were less than 2.7 grams/kg BLS (5.4 lbs./ton BLS). All sampling data shall be corrected for cyclonic flow, where applicable;

(c) Each mill shall provide continuous monitoring of opacity of emissions discharged to the atmosphere from the spent liquor incinerator, and the acid plant in accordance with the Department **Continuous Monitoring Manual**; except that when continuous monitoring of opacity is not feasible due to excessive moisture then EPA Method 9 shall be used for the determination of opacity.

(4) Sulfur Dioxide (SO₂). Representative sulfur dioxide emissions from spent liquor incinerators and from the acid absorption tower shall be determined at least once every six (6) months with:

(a) The sampling method; and

(b) The analytical method specified in the Department **Source Sampling Manual**.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-025-0230.

340-025-0232234-0350

Reporting

Unless otherwise authorized by permit, data shall be reported by each mill for each sampling period by the 15th day of the first month following the applicable sampling period as follows:

(1) Daily average emissions of TRS gases in kilograms of total reduced sulfur per metric ton (pounds of total reduced sulfur per ton) of black liquor solids expressed as H₂S based on all samples collected in one sampling period from the spent liquor incinerator.

(2) Daily average emissions of particulate in kilograms per metric ton (pounds per ton) of black liquor solids based on all samples collected in one sampling period from the spent liquor incinerator.

(3) Daily average concentration of sulfur dioxide in ppm for each source included in the approved monitoring program based on all samples collected in any one sampling period.

(4) Daily average amount of virgin air-dried unbleached NSSC pulp produced expressed as air dried metric tons per day (air dried tons per day).

(5) Daily average amount of black liquor solids, dry weight, fired in the spent liquor incinerator during periods of operation.

(6) Upset conditions shall be reported in accordance with OAR 340-025-0234234-0360(3).

(7) Each mill shall furnish, upon request of the Department, such other pertinent data as the Department may require to evaluate the mills emission control program.

(8) The Department shall be notified at least 15 days in advance of all scheduled reference method testing including all scheduled changes.

(9) Data reported shall reflect actual observed levels.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0232.

340-025-0234234-0360

Upset Conditions

(1) Each mill shall report abnormal mill operations to the Department including control and process equipment maintenance, or unexpected upsets that result in emissions in excess of the regulatory or air containment discharge permit limits within one hour, or when conditions prevent prompt notification, as soon as possible but no later than one hour after the start of the next working day. The mill shall also take immediate corrective action to reduce emission levels to regulatory or permit levels.

(2) Upsets shall be reported in writing with an accompanying report on measures taken or to be taken to correct the condition and prevent its reoccurrence within five working days of each incident.

(3) Each mill shall report the cumulative duration in hours each month of the upsets reported in section (1) of this rule and classified as to:

(a) Spent Liquor Incinerator:

(A) TRS;

(B) Particulate;

(C) SO₂;

(D) Opacity.

(b) Acid Absorption Tower:

(A) SO₂;

(B) Opacity.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of references to Total Reduced Sulfur.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0234.

Regulations for Sulfite Pulp Mills

340-025-0355234-0400

Statement of Purpose Policy and Applicability

(1) Policy. It is the policy of the Commission:

(1a) To require, in accordance with a specific program and timetable for each operating mill, the highest and best practicable treatment and control of emissions from sulfite mills through the utilization of technically feasible equipment, devices, and procedures.

(1b) To require the evaluation of improved and effective measuring techniques for sulfur oxides, total reduced sulfur, particulates, and other emissions from sulfite mills.

(3c) To require effective measuring and reporting of emissions and reporting of other data pertinent to emissions. The Department will use these data in conjunction with ambient air data and observation of conditions in the surrounding area to develop and revise emission standards and air quality standards, and to determine compliance therewith.

(4d) To encourage and assist the sulfite pulping industry to conduct a research and technological development program designed to progressively reduce sulfite mill emissions, in accordance with a definite program with specific objectives.

(5e) To establish standards deemed to be technically feasible, reasonably attainable, and necessary for the attaining of satisfactory air quality with the intent of revising the standards as new information and better technology are developed.

(2) Applicability. OAR 340-234-0400 through 340-234-0430 apply to existing and new sulfite pulp mills.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 32, f. 11-23-71, ef. 12-15-71; DEQ 15-1980, f. & ef. 5-23-80; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0355.

340-025-0360234-0410

Minimum Emission Standards

(1) Notwithstanding the specific emission limits set forth in this rule, the Department of Environmental Quality may, after notice and hearing, establish more restrictive emission limits and compliance schedules for mills located in recognized problem areas, for new mills, for mills expanding existing facilities, for mills installing substantial modifications of existing facilities which result in increased emissions; or for mills in areas where it is shown ambient air standards are exceeded.

(2) The total average daily emissions from a sulfite pulp mill shall not exceed 20 pounds of sulfur dioxide per ton of air dried unbleached pulp produced and in addition:

(a) The blow system emissions shall not exceed 0.2 pounds of sulfur dioxide per minute per ton of unbleached pulp (charged to digester) on a 15 minute average;

(b) Emissions from the recovery system, acid plant, and other sources shall not exceed 800 ppm of sulfur dioxide as an hourly average.

(3) Mills of less than 110 tons of air dried unbleached pulp per day may be exempted from the limitations of section (2) of this rule provided that a minimum of 80 percent collection efficiency for sulphur dioxide (SO₂) is maintained.

(4) The total emission of particulate matter from the recovery furnace stacks shall not exceed four pounds per air dried ton of unbleached pulp produced.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 32, f. 11-23-71, ef. 12-15-71; DEQ 15-1980, f. & ef. 5-23-80; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0360.

340-025-0370234-0420

Monitoring and Reporting

(1) Each mill shall maintain a Department approved detailed sampling and testing program.

(2) The monitoring equipment shall be capable of determining compliance with the emission limits established by OAR 340-025-0350234-0400 through 350-025-0380234-0430, and shall be capable of continual sampling and recording of concentrations of sulfur dioxide contaminants from the recovery system. Unless otherwise approved in writing, compliance shall be determined by EPA Method 6 which is contained in the Department **Source Sampling Manual**.

(3) Each mill shall sample the recovery system, blow system, and acid plant for sulfur dioxide emissions on a regularly scheduled basis.

(4) Each mill shall sample the recovery furnace stacks for particulate on a regularly scheduled basis. Unless otherwise approved in writing, compliance shall be determined by EPA Method 5 (front half only) which is contained in the Department **Source Sampling Manual**.

(5) Unless otherwise authorized, data shall be reported by each mill at the end of each calendar month as follows:

(a) Average daily emissions of sulfur dioxides expressed as pounds of sulfur dioxide per ton of pulp produced from the blow system, recovery system, and acid plant;

(b) The daily average and peak concentrations of sulfur dioxides expressed in pounds per hour and expressed in ppm of sulfur dioxide and the number of hours each day that the concentration exceeds 500 ppm;

(c) The average daily production of unbleached pulp and the maximum daily production.

(6) Each mill shall furnish upon request of the Department, such other pertinent data as the Department may require to evaluate the mill's emission control program. Unless otherwise prescribed, each mill shall report immediately to the Department abnormal mill operations which adversely affect the emission of air contaminants.

(7) All measurements shall be made in accordance with techniques approved by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 32, f. 11-23-71, ef. 12-15-71; DEQ 15-1980, f. & ef. 5-23-80; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0370.

340-025-0380234-0430

Exceptions

OAR 340-025-0350234-0400 through 340-025-0380234-0430 do not apply to open burning or power boiler operations conducted at sulfite pulp mills unless such boilers are an integral part of the sulfite process or recovery system.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 32, f. 11-23-71, ef. 12-15-71; DEQ 15-1980, f. & ef. 5-23-80; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0380.

Board Products Industries (Veneer, Plywood, Particleboard, Hardboard)

340-025-0310234-0500

Applicability and General Provisions

(1) OAR 340-025-0305234-0500 through 340-025-0325234-0530 establish minimum performance and emission standards for veneer, plywood, particleboard, and hardboard manufacturing operations.

(2) Emission limitations established herein are in addition to, and not in lieu of, general emission standards for visible emissions, fuel burning equipment, and refuse burning equipment, except as provided for in OAR 340-025-0315234-0510.

(3) Emission limitations established herein and stated in terms of pounds per 1,000 square feet of production shall be computed on an hourly basis using the maximum eight-hour production capacity of the plant.

(4) Each affected veneer, plywood, particleboard, and hardboard plant shall proceed with a progressive and timely program of air pollution control. Each plant shall at the request of the Department submit periodic reports in such form and frequency as directed to demonstrate the progress being made toward full compliance with OAR 340-025-0305234-0500 through 340-025-0325234-0530.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 26, f. 3-31-71, ef. 4-25-71; DEQ 132, f. & ef. 4-11-77; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-025-0310.

340-025-0315234-0510

Veneer and Plywood Manufacturing Operations

(1) Veneer Dryers:

(a) Consistent with OAR 340-025-03102340-500(1) through (4), it is the object of this section to control air contaminant emissions, including, but not limited to, condensible hydrocarbons such that visible emissions from each veneer dryer are limited to a level which does not cause a characteristic "blue haze" to be observable;

(b) No person shall operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:

(A) An average operating opacity of ten percent; and

(B) A maximum opacity of 20 percent.

(c) Particulate emissions from wood fired veneer dryers shall not exceed:

(A) 0.75 pounds per 1,000 square feet of veneer dried (3/8 inch basis) for units using fuel which has a moisture content by weight of 20 percent or less;

(B) 1.50 pounds per 1,000 square feet of veneer dried (3/8 inch basis) for units using fuel which has a moisture content by weight of greater than 20 percent;

(C) In addition to paragraphs (1)(c)(A) and (B) of this rule, 0.40 pounds per 1,000 pounds of steam generated in boilers which exhaust gases to the veneer dryer.

(d) Exhaust gases from fuel-burning equipment vented to the veneer dryer are exempt from OAR 340-021-0020228-0210;

(e) Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants are kept at the lowest practicable levels;

(f) No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule;

(g) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling, and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air;

(h) The Department may require more restrictive emission limits than provided in subsections (1)(b) and (c) of this rule for an individual plant upon a finding by the Commission that the individual plant is located or is proposed to be located in a special problem area. The more restrictive emission limits for special problem areas may be established on the basis of allowable emissions expressed in opacity, pounds per hour, or total maximum daily emissions to the atmosphere, or a combination thereof.

(2) Other Emission Sources:

(a) No person shall cause to be emitted particulate matter from veneer and plywood mill sources, including, but not limited to, sanding machines, saws, presses, barkers, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, and truck loading and unloading facilities in excess of a total from all sources within the plant site of one pound per 1,000 square feet of plywood or veneer production on a 3/8 inch basis of finished product equivalent;

(b) Excepted from subsection (2)(a) of this rule are veneer dryers, fuel burning equipment, and refuse burning equipment.

(3) Monitoring and Reporting: The Department may require any veneer dryer facility to establish an effective program for monitoring the visible air contaminant emissions from each veneer dryer emission point. The program shall be subject to review and approval by the Department and shall consist of the following:

(a) A specified minimum frequency for performing visual opacity determinations on each veneer dryer emission point;

(b) All data obtained shall be recorded on copies of a "Veneer Dryer Visual Emissions Monitoring Form" which shall be provided by the Department of Environmental Quality or on an alternative form which is approved by the Department; and

(c) A specified period during which all records shall be maintained at the mill site for inspection by authorized representatives of the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 26, f. 3-31-71, ef. 4-25-71; DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 43(Temp), f. & ef. 5-5-72 thru 9-1-72; DEQ 48, f. 9-20-72, ef. 10-1-72; DEQ 52, f. 4-9-73, ef. 5-1-73; DEQ 83, f. 1-30-75, ef. 2-25-75; DEQ 132, f. & ef. 4-11-77; DEQ 7-1979, f. & ef. 4-20-79; DEQ 10-1985, f. & ef. 8-8-85; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0315.

340-025-0320234-0520

Particleboard Manufacturing Operations

(1) Truck Dump and Storage Areas:

(a) Every person operating or intending to operate a particleboard manufacturing plant shall cause all truck dump and storage areas holding or intended to hold raw materials to be enclosed to prevent windblown particle emissions from these areas from being deposited upon property not under the ownership of said person;

(b) The temporary storage of raw materials outside the regularly used areas of the plant site is prohibited unless the person who desires to temporarily store such raw materials first notifies the Department of Environmental Quality and receives written approval for said storage:

(A) When authorized by the Department of Environment Quality, temporary storage areas shall be operated to prevent windblown particulate emissions from being deposited upon property not under the ownership of the person storing the raw materials;

(B) Any temporary storage areas authorized by the Department shall not be operated in excess of six (6) months from the date they are first authorized.

(c) Any person who proposes to control windblown particulate emissions from truck dump storage areas other than by enclosure shall apply to the Department for written authorization to utilize alternative controls. The application shall describe in detail the plan proposed to control windblown particulate emissions and indicate on a plot plan the nearest location of property not under ownership of the applicant.

(2) Other Emission Sources:

(a) No person shall cause to be emitted particulate matter from particleboard plant sources including, but not limited to, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, particle dryers, classifiers, presses, sanding machines, and materials handling systems in excess of a total from all sources within the plant site of three (3.0) pounds per 1000 square feet of particleboard produced on a 3/4 inch basis of finished product equivalent;

(b) Excepted from subsection (2)(a) of this rule are truck dump and storage areas, fuel burning equipment, and refuse burning equipment.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 26, f. 3-31-71, ef. 4-25-71; DEQ 130, f. & ef. 3-22-77; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-025-0320.

340-025-0325234-0530

Hardboard Manufacturing Operations

(1) Truck Dump and Storage Areas:

(a) Every person operating or intending to operate a hardboard manufacturing plant shall cause all truck dump and storage areas holding or intended to hold raw materials to be enclosed to prevent windblown particle emissions from these areas from being deposited upon property not under the ownership of said person;

(b) The temporary storage of raw materials outside the regularly used areas of the plant site is prohibited unless the person who desires to temporarily store such raw materials first notifies the Department of Environmental Quality and receives written approval:

(A) When authorized by the Department of Environmental Quality, temporary storage areas shall be operated to prevent windblown particulate emissions from being deposited upon property not under the ownership of the person storing the raw materials;

(B) Any temporary storage areas authorized by the Department shall not be operated in excess of six (6) months from the date they are first authorized.

(c) Alternative Means of Control. Any person who desires to control windblown particulate emissions from truck dump and storage areas other than by enclosure shall first apply to the Department for written authorization to utilize alternative controls. The application shall describe in detail the plan proposed to control windblown particulate emissions and indicate on a plot plan the nearest location of property not under ownership of the applicant.

(2) Other Emission Sources:

(a) Hardboard plants which did not exist during the baseline period. No person shall cause or permit the total emissions rate of particulate matter from a hardboard plant which did not exist during the baseline period to exceed one (1.0) pound per 1000 square feet of hardboard produced on a 1/8 inch basis of finished product equivalent.

(b) Hardboard plants which existed during the baseline period. No person shall cause or permit the total emissions rate of particulate matter from a hardboard plant which existed during the baseline period to exceed the lesser of:

(A) Two (2.0) pounds per 1000 square feet of hardboard produced on a 1/8 inch basis of finished product equivalent; or

(B) The sum of the baseline emissions rate of the press/cooling vent and the lesser of:

(i) The baseline emissions rate from the hardboard plant excluding the press/cooling vents; or

(ii) One (1.0) pound per 1000 square feet of hardboard produced on a 1/8 inch basis of finished product equivalent.

(c) Excepted from subsections (a) and (b) of this section are truck dump and storage areas, fuel burning equipment, and refuse burning equipment.

(3) Emissions from Hardboard Tempering Ovens:

(a) No person shall operate any hardboard tempering oven unless all gases and vapors emitted from said oven are treated in a fume incinerator capable of raising the temperature of said gases and vapors to at least 1500° F. for 0.3 seconds or longer;

(b) Specific operating temperatures lower than 1500° F. may be approved by the Department upon application, provided that information is supplied to show that operation of said temperatures provides sufficient treatment to prevent odors from being perceived on property not under the ownership of the person operating the hardboard plant;

(c) In no case shall fume incinerators installed pursuant to this section be operated at temperatures less than 1000° F.;

(d) Any person who proposes to control emissions from hardboard tempering ovens by means other than fume incineration shall apply to the Department for written authorization to utilize alternative controls. The application shall describe in detail the plan proposed to control odorous emissions and indicate on a plot plan the location of the nearest property not under ownership of the applicant.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 26, f. 3-31-71, ef. 4-25-71; DEQ 130, f. & ef. 3-22-77; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-025-0325.

DIVISION 236

EMISSION STANDARDS FOR SPECIFIC INDUSTRIES

[ED. NOTE: Administrative Order DEQ 60 repealed previous OAR 340-025-0255 through 340-025-0290 (consisting of DEQ 19, filed 7-14-70 and effective 8-10-70).]

340-025-0260236-0010

Definitions

As used in OAR 340-025-0255 through 340-025-0285: The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "All Sources" means:

(a) as used in OAR 340-236-0100 through 340-236-0150 sources including, but not limited to, the reduction process, alumina plant, anode plant, anode baking plant, cast house, and collection, treatment, and recovery systems. Except for the purposes of 340-025-0265236-0120(1)(c) and (3)(d), "all sources" does not include sources of fugitive emissions;

340-025-0410(4) "All Sources" means (b) as used in OAR 340-236-0200 through 340-236-0230 all equipment, structures, processes, and procedures directly related to or involved in the production of ferronickel from laterite ore excluding open storage areas and mining activities.

(2) "Ambient Air" means the air that surrounds the earth, excluding the general volume of gases contained within any building or structure.

(3) "Annual Average" means the arithmetic average of the monthly averages reported to the Department during the twelve most recent consecutive months.

(4) "Anode Baking Plant" means the heating and sintering of pressed anode blocks in oven-like devices, including the loading and unloading of the oven-like devices.

(5) "Anode Plant" means all operations directly associated with the preparation of anode carbon except the anode baking operation.

340-025-0410(65) "Average Dry Laterite Ore Production Rate" means the average amount of dry laterite ore produced per hour based upon annual production records.

340-025-0105(72) "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of material collected to total input to the collector unless specific size fractions of the contaminant are stated or required.

(86) "Commission" means Environmental Quality Commission.

(97) "Cured Forage" means hay, straw, ensilage that is consumed or is intended to be consumed by livestock.

(108) "Department" means Department of Environmental Quality.

340-025-0105(114) "Dusts" means minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, or sweeping.

340-025-0410(12) "Dry Laterite Ore" means laterite ore free of uncombined water or as it is discharged from an ore drying equipment or process.

(139) "Emission" means a release into the outdoor atmosphere of air contaminants.

(144) "Emission Standards" means the limitation on the release of contaminant or multiple contaminants to the ambient air.

340-025-0410(153) "Ferronickel" means a metallic alloy containing about 50 percent nickel and 50 percent iron.

(164) "Fluorides" means matter containing fluoride ion emitted to the ambient air as measured by EPA Method 13A or 13B and Method 14 in accordance with the Department's Source Sampling Manual or an equivalent test method approved in writing by the Department.

(174) "Forage" means grasses, pasture, and other vegetation that is consumed or is intended to be consumed by livestock.

(184) "Fugitive emissions" means emissions of any air contaminant that escapes to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

340-025-0105(194) "Hot Mix Asphalt Plants" means those facilities and equipment which convey or batch load proportioned quantities of cold aggregate to a drier, and heat, dry, screen, classify, measure, and mix the aggregate with asphalt for purposes of paving, construction, industrial, residential, or commercial use.

~~340-025-0410(204)~~ "Laterite Ore" means a red residual soil containing commercially valuable amounts of nickel, about one percent to two percent by weight.

(2144) "Monthly Average" means the summation of the arithmetic average of all representative test results obtained during any calendar month and the emission rates established for sources not subject to routine testing.

~~(2245)~~ "Opacity" means the degree to which an emission reduces transmission of light or obscures the view of an object in the background as measured by EPA Method 9 in accordance with the Department's Source Sampling Manual.

~~340-025-0410(7)~~ "Opacity" means the degree to which an emission reduces transmission of light or obscures the view of an object in the background.

(2346) "Particulate Matter" means:

(a) as used in OAR 340-236-0100 through 340-236-0150 a small discrete mass of solid or liquid matter, but not including uncombined water emitted to the ambient air as measured by EPA Method 5 in accordance with the Department's Source Sampling Manual or an equivalent test method approved in writing by the Department;

~~340-025-0410(6)~~ "Particulate Matter" means (b) as used in OAR 340-236-0200 through 340-236-0230 and 340-236-0400 through 340-236-0440 a small, discrete mass of solid or liquid matter, but not including uncombined water.

~~340-025-0105(6)~~ "Particulate Matter" means any matter except uncombined water, which exists as a liquid or solid at standard conditions.

(2447) "Primary Aluminum Plant" means those plants, which will or do operate for the purpose of, or related to, producing aluminum metal from aluminum oxide (alumina).

~~340-025-0105(255)~~ "Portable Hot Mix Asphalt Plants" means those hot mix asphalt plants which are designed to be dismantled and are transported from one job site to another job site.

(2648) "Pot Line Primary Emission Control Systems" means the system which collects and removes contaminants prior to the emission point. If there is more than one such system, the primary system is that system which is most directly related to the aluminum reduction cell.

~~340-025-0105(273)~~ "Process Weight by Hour" means the total weight of all materials introduced into any specific process which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. The "process weight per hour" will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

(2849) "Regularly Scheduled Monitoring" means sampling and analyses in compliance with a program and schedule approved pursuant to OAR 340-025-0280/236-0140.

(2920) "Source test" means a minimum of three (3) individual test runs with the pollutant emissions determined from the arithmetic average of the three tests.

(3024) "Standard Dry Cubic Foot of Gas" means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 P.S.I.A. and a temperature of 68° F.

340-025-0105(317) "Special Control Areas" means any location within:

~~(a) Multnomah, Clackamas, Columbia, Washington, Yamhill, Polk, Benton, Marion, Linn, and Lane Counties;~~

~~(b) The Umpqua Basin as defined in OAR 340-204-0010(2);~~

~~(c) The Rogue Basin as defined in OAR 340-204-0010(3); an area designated in OAR 340-204-0070 and:~~

~~(da) Any incorporated city or within six miles of the city limits of said incorporated city;~~

~~(eb) Any area of the state within one mile of any structure or building used for a residence;~~

~~(fc) Any area of the state within two miles straight line distance or air miles of any paved public road, highway, or freeway having a total of two or more traffic lanes.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047/200-0040 with the exception of fluoride requirements.]

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 60, f. 12-5-73, ef. 12-25-73; DEQ 10-1982, f. & ef. 6-18-82; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 18-1998, f. & cert. ef. 10-5-98; renumbered from OAR 340-025-0105, 340-025-0260, 340-025-0410.

Primary Aluminum Standards

340-025-0255236-0100

Statement of Purpose

In furtherance of the public policy of the State as set forth in ORS 468A.010, it is hereby declared to be the purpose of the Commission in adopting the following regulations to:

(1) Require, in accordance with a specific program and time table for each operating primary aluminum plant, the highest and best practicable collection, treatment, and control of atmospheric pollutants emitted from primary aluminum plants through the utilization of technically feasible equipment, devices, and procedures necessary to attain and maintain desired air quality.

(2) Require effective monitoring and reporting of emissions, ambient air levels of fluorides, fluoride content of forage, and other pertinent data, The Department will use these data, in conjunction with observation of conditions in the surrounding areas, to develop emission and ambient air standards and to determine compliance therewith.

(3) Encourage and assist the aluminum industry to conduct a research and technological development program designed to reduce emissions, in accordance with a definite program, including specified objectives and time schedules.

(4) Establish standards which, based upon presently available technology, are reasonably attainable with the intent of revising the standards as needed when new information and better technology are developed.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of fluoride requirements.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 60, f. 12-5-73, ef. 12-25-73; DEQ 10-1982, f. & ef. 6-18-82; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340025-0255.

340-236-0110

Applicability

OAR 340-236-0100 through 340-236-0150 apply to existing and new primary aluminum plants.

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

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.:

340-025-0265236-0120

Emission Standards

(1) The emissions from all sources at each primary aluminum plant constructed after January 1, 1973, shall be collected and treated as necessary so as not to exceed the following minimum requirements:

(a) Total fluoride emissions shall not exceed:

(A) A monthly average of 1.2 pounds of fluoride ion per ton of aluminum produced; and

(B) An annual average of 1.0 pound of fluoride ion per ton of aluminum produced; and

(C) 12.5 tons of fluoride ions per month from any single aluminum plant without prior written approval by the Department.

(b) The total of organic and inorganic particulate matter emissions shall not exceed:

(A) A monthly average of 7.0 pounds of particulate per ton of aluminum produced; and

(B) An annual average of 5.0 pounds of particulate per ton of aluminum produced.

(c) Visible emissions from any source shall not exceed ten-(10) percent opacity at any time.

(2) Each primary aluminum plant constructed and operated after January 1, 1973, shall be in full compliance with OAR ~~340-025-0255236-0100~~ through ~~340-025-0285236-0150~~ no later than 180 days after completing potroom start-up and shall maintain full compliance thereafter.

(3) The emissions from all sources at each primary aluminum plant constructed on or before January 1, 1973, shall be collected and treated as necessary so as not to exceed the following minimum requirements:

(a) Total fluoride emissions shall not exceed:

(A) A monthly average of 3.5 pounds of fluoride ion per ton of aluminum produced until one of the following compliance dates, upon which time this limit shall be rescinded and the total fluoride emission limits in 40 CFR 63.843 are effective:

(i) October 7, 1999 for an owner or operator of a plant built before September 26, 1996;

- (ii) October 9, 2000 for a plant built before September 26, 1996, provided the owner or operator demonstrates to the satisfaction of the Department that additional time is needed to install or modify the emission control equipment;
- (iii) October 8, 2001 for a plant built before September 26, 1996, that is granted an extension by the Department under section 112(i)(3)(B) of the Clean Air Act Amendments of 1990; or
- (iv) Upon startup for an owner or operator of a plant built or modified after September 26, 1996; and
 - (B) An annual average of 2.5 pounds of fluoride ion per ton of aluminum produced.
- (b) The total of organic and inorganic particulate matter emissions from all sources at plants using vertical stud Soderberg cells shall not exceed:
 - (A) A monthly average of 13.0 pounds of particulate per ton of aluminum produced; and
 - (B) An annual average of 10.0 pounds of particulate per ton of aluminum produced.
- (c) The total of organic and inorganic particulate matter emissions from all sources at plants using prebake cells shall not exceed:
 - (A) A monthly average of 15.6 pounds of particulate per ton of aluminum produced; and
 - (B) An annual average of 13.5 pounds of particulate per ton of aluminum produced.
- (d) Visible emissions from any source shall not exceed 20 percent opacity at any time.
- (e) In addition to the standards and requirements contained in OAR ~~340-025-0155~~236-0100 through OAR ~~340-025-0285~~236-0150, each primary aluminum plant shall be in full compliance with **40 CFR Part 63, Subpart LL**, National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants as adopted under OAR 340-244-0220.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040 with the exception of fluoride requirements.]

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the Department of Environmental Quality.]
Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 60, f. 12-5-73, ef. 12-25-73; DEQ 4-1980, f. & ef. 1-28-80; DEQ 10-1982, f. & ef. 6-18-82; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 26-1995, f. & cert. ef. 12-06-96; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 2-1999, f. & cert. ef. 2-5-99; renumbered from OAR 340-025-0265.

340-025-0270236-0130

Special Problem Areas

The Department may require more restrictive emission limits than the numerical emission standards contained in OAR ~~340-025-0265~~236-0120 for an individual plant upon a finding by the Commission that the individual plant is located, or is proposed to be located, in a special problem area. Such more restrictive emission limits for special problem areas may be established on the basis of allowable emissions per ton of aluminum produced or total maximum daily emissions to the atmosphere, or a combination thereof, and may be applied on a seasonal or year-round basis.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040 with the exception of fluoride requirements.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 60, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0270.

340-025-0280236-0140

Monitoring

(1) Each primary aluminum plant constructed and operated on or before January 1, 1973, shall submit and conduct a detailed, effective monitoring program. The program shall include regularly scheduled monitoring and testing by the plant of emissions of gaseous and particulate fluorides and total particulates.

(a) Each plant shall test emissions from each operating potline once per calendar month except as allowed in subsection (b) of this section. A minimum of three (3) representative test runs shall be taken each month. All such testing shall include simultaneous sampling of control system(s) and/or roof vents unless otherwise authorized in writing by the Department. Anode bake oven control systems shall be tested at least once per month;

(b) Reduced sampling frequency in accordance with **40 CFR 63.848(e)** and emissions monitoring frequency for the potline primary emission control system and the anode baking plant in accordance with **40 CFR 63.848(a)** and (c) may be approved by the Department upon the applicable compliance date in OAR ~~340-025-0265~~236-0120(3)(a)(A);

(c) All tests shall be taken on prespecified dates. A schedule for measurement of fluoride levels in forage for new plants and ambient air for new and existing plants shall be submitted. The Department shall establish a monitoring program for each plant which shall be placed in effective operation within ninety (90) days after written notice to the plant by the Department of the established monitoring program.

(2) Each primary aluminum plant proposed to be constructed and operated after January 1, 1973 shall submit a detailed pre-construction and post-construction monitoring program as a part of the air contaminant discharge permit application.

(3) All monitoring methods used to demonstrate compliance with OAR 340-025-0255236-0100 through 340-025-0285236-0150, including sampling and analytical procedures, must be filed with and approved by the Department. Where applicable, methods in the Department Source Sampling Manual, including, but not limited to, EPA Methods 5 and 7 for particulates and Method 13A or 13B and Method 14 or Method 14A for fluorides or other alternative method in 40 CFR 63.849, shall be used.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of fluoride requirements.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 60, f. 12-5-73, ef. 12-25-73; DEQ 10-1982, f. & ef. 6-18-82; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 26-1995, f. & cert. ef. 12-06-95; DEQ 18-1998, f. & cert. ef. 10-5-98; renumbered from OAR 340-025-0280.

340-025-0285236-0150

Reporting

(1) Unless otherwise authorized in writing by the Department, data for each source and station included in the approved monitoring program shall be reported by each primary aluminum plant within 30 days of the end of each calendar month as follows:

(a) Ambient air: 12-hour concentrations of gaseous fluoride in ambient air expressed in micrograms per cubic meter of air, and in parts per billion (ppb);

(b) Forage: Concentrations of fluoride in forage expressed in parts per million (ppm) of fluoride on a dried weight basis, if applicable;

(c) Particulate emissions: Results of all emission sampling conducted during the month for particulates, expressed in pounds per ton of aluminum produced. The method of calculating pounds per ton shall be as specified in the approved monitoring programs. Particulate data shall be reported as total particulates and percentage of fluoride ion contained therein;

(d) Gaseous emissions: Results of all sampling conducted during the month for gaseous fluorides. All results shall be expressed as fluoride ion in pounds of fluoride ion per ton of aluminum produced;

(e) Total fluoride: Results of all sampling conducted during the month for total fluoride. All results shall be expressed as fluoride ion in pounds of fluoride ion per ton of aluminum produced;

(f) Other emission and ambient air data as specified in the approved monitoring program;

(g) Changes in collection efficiency of any portion of the collection or control system that resulted from equipment or process changes.

(2) Each primary aluminum plant shall furnish, upon request of the Department, such other data as the Department may require to evaluate the plant's emission control program. Each primary aluminum plant shall report the value of each emission test performed during that reporting period, and shall also immediately report abnormal plant operations, which result in increased emission of air contaminants.

(3) No person shall construct, install, establish, or operate a primary aluminum plant without first applying for and obtaining an air contaminant discharge permit from the Department. Addition to, or enlargement or replacement of, a primary aluminum plant or any major alteration thereof shall be construed as construction, installation, or establishment.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040 with the exception of fluoride requirements.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 60, f. 12-5-73, ef. 12-25-73; DEQ 10-1982, f. & ef. 6-18-82; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1998, f. & cert. ef. 10-5-98; renumbered from OAR 340-025-0285.

Laterite Ore Production of Ferronickel

340-025-0405236-0200

Statement of Purpose

In furtherance of the public policy of the State as set forth in ORS 468A.010, it is hereby declared to be the purpose of the Commission in adopting OAR ~~340-025-0405236-0200~~ through ~~340-025-0430236-0230~~ to:

(1) Require, in accordance with a specific program and timetable, the highest and best practicable collection, treatment, and control of atmospheric pollutants through the utilization of technically feasible equipment, devices, and procedures necessary to attain and maintain desired air quality.

(2) Establish standards which based upon presently available technology, are reasonably attainable with the intent of revising the standards as needed when new information and/or better technology are developed.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-025-0405.

340-236-0210

Applicability

OAR ~~340-236-0200~~ through ~~340-236-0230~~ apply to laterite ore production of ferronickel.

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

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.:

340-025-0415236-0220

Emission Standards

(1) No source shall have visible emissions in excess of 20 percent opacity, provided that where the presence of uncombined water is the only reason for failure of an emission to meet this requirement, such requirement shall not apply.

(2) The total combined emission of particulate matter from all sources shall not exceed 3.5 pounds per ton of dry laterite ore produced, based upon the average dry laterite ore production rate.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-031-0415.

340-025-0430236-0230

Monitoring and Reporting

(1) Emission testing shall be conducted by the industry using Department approved methods to determine compliance with this rule.

(2) Abnormal operations which adversely affect the emission of air contaminants shall be reported to the Department within one-hour of the occurrence, or as soon as is reasonably possible.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0430.

Reduction of Animal Matter

340-025-0070236-0300

Application Applicability

OAR ~~340-025-0055236-0300~~ through ~~340-025-0080236-0330~~ shall apply to the reduction of animal matter in all areas of the state which are within city limits or within two miles of the boundaries of incorporated cities.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: SA 30, f. 6-7-68, ef. 8-1-68; DEQ 4-1993, f. & cert. ef. 3-10-03; renumbered from OAR 340-025-0070.

340-025-0055236-0310

Control Facilities Required

(1) A person shall not operate or use any article, machine, equipment or other contrivance for the reduction of animal matter unless all gases, vapors and gas-entrained effluents from such an article, machine, equipment or other contrivance are:

(a) Incinerated at temperatures of not less than 1,200° Fahrenheit for a period of not less than 0.3 seconds; or

(b) Processed in such a manner determined by the Department to be equally, or more, effective for the purpose of air pollution control than section (1) of this rule.

(2) A person incinerating or processing gases, vapors or gas-entrained effluents pursuant to this rule shall provide, properly install and maintain in calibration, in good working order and in operation, devices as specified by the Department, for indicating temperature, pressure or other operating conditions.

(3) For the purpose of OAR ~~340-025-0055236-0300~~ through ~~340-025-0075236-0330~~, "reduction" is defined as any heated process, including rendering, cooking, drying, dehydrating, digesting, evaporating and protein concentrating.

(4) The provisions of OAR ~~340-025-0055236-0300~~ through ~~340-025-0075236-0330~~ shall not apply to any article, machine, equipment, or other contrivance used exclusively for the processing of food for human consumption.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: SA 30, f. 6-7-68, ef. 8-1-68; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0055.

340-025-0060236-0320

Monitoring of Reduction Facilities

(1)(a) When requested by the Department for the purpose of formulating plans in conjunction with industries who are or may be sources of air pollution, and to investigate sources of air pollution, monitoring data shall be submitted for plant operational periods and shall include:

(A) Continuous or at least hourly influent and effluent temperature readings on the condenser;

(B) Continuous or at least hourly temperature readings on the after-burner;

(C) Estimated weights of finished products processed in pounds per hour;

(D) Hours of operation per day; and

(E) A narrative description to accurately portray control practices, including the housekeeping measures employed.

(b) When requested by the plant manager any information relating to processing or production shall be kept confidential by the Department and shall not be disclosed or made available to competitors or their representatives in the rendering industry.

(2) Whenever a breakdown of operating facilities occurs or unusual loads or conditions are encountered that cause or may cause release of excessive and malodorous gases or vapors, the Department shall be immediately notified.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: SA 30, f. 6-7-68, ef. 8-1-68; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0060.

340-025-0065236-0330

Housekeeping of Plant and Plant Area

The plant facilities and premises are to be kept clean and free of accumulated raw material, products, and waste materials. The methods used for housekeeping shall include, but not be limited to:

(1) A washdown at least once each working day, of equipment, facilities and building interiors that come in contact with raw or partially processed material, with steam or hot water and detergent or equivalent additive.

(2) All solid wastes shall be stored in covered containers and disposed of daily in an incinerator or fill, approved by the Department; or by contract with a company or municipal department providing such service.

(3) Disposal of liquid and liquid-borne waste in a manner approved by the Department.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: SA 30, f. 6-7-68, ef. 8-1-68; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0065.

Hot Mix Asphalt Plants

[ED. NOTE: Administrative Order DEQ 49 repealed previous OAR 340-025-0105 through 340-025-0130 (consisting of SA 32, filed 8-5-68, effective 4-1-69).]

340-236-0400

Applicability

OAR 340-236-0400 through 340-236-0440 apply to hot mix asphalt plants.

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

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.:

340-025-0110236-0410

Control Facilities Required

(1) No person shall operate any hot mix asphalt plant, either portable or stationary, located within any area of the state outside special control areas unless all dusts and gaseous effluents generated by the plant are subjected to air cleaning device or devices having a particulate collection efficiency of at least 80 percent by weight.

(2) No person shall operate any hot mix asphalt plant, either portable or stationary located within any special control area of the state without installing and operating systems or processes for the control of particulate emissions so as to comply with the emission limits established by the process weight table, **Table 1**, attached herewith and by reference made a part of this rule and the emission limitations in OAR ~~340-021-0015~~208-0110(2) and (3), and ~~340-021-0030~~226-0210.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 49, f. 2-9-73, ef. 3-1-73; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0110.

340-025-0115236-0420

Other Established Air Quality Limitations

The emission limits established under OAR ~~340-025-0105~~236-0400 through ~~340-025-0125~~236-0440 are in addition to visible emission and other ambient air standards, established or to be established by the Environmental Quality Commission unless otherwise provided by rule or regulation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 49, f. 2-9-73, ef. 3-1-73; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0115.

340-025-0120236-0430

Portable Hot Mix Asphalt Plants

Portable hot mix asphalt plants may apply for air contaminant discharge permits within the area of Department jurisdiction without indicating specific site locations. As a condition of said permit, the permittee will be required to obtain approval from the Department for the air pollution controls to be installed at each site location or set-up at least ten days prior to operating at each site location or set-up.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

340-025-0125236-0440

Ancillary Sources of Emission — Housekeeping of Plant Facilities

(1) Ancillary air contamination sources from the plant and its facilities which emit air contaminants into the atmosphere such as, but not limited to, the drier openings, screening and classifying system, hot rock elevator, bins, hoppers, and pug mill mixer, shall be controlled at all times so as to maintain the highest possible level of air quality and the lowest possible discharge of air contaminants.

(2) The handling of aggregate and traffic shall be conducted at all times so as to minimize emissions into the atmosphere.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 49, f. 2-9-73, ef. 3-1-73; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0125.

Solid Waste Landfills

340-025-0745236-0500

Emission Standards for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction or Modification Before May 30, 1991

(1) Applicability. This rule applies to small and large municipal solid waste landfills in the following categories:

(a) Landfills that have accepted waste since 11/08/87;

(b) Landfills with no modifications after 5/30/91;

(c) Landfills that closed after 11/08/87 with no modifications after 5/30/91.

(2) General Requirements. Landfills subject to this rule must comply with **40 CFR Section 60.751 through 60.759, July 1998** as adopted under OAR 340-025-0535238-0060, except as noted in Section 4 of this rule.

(3) Permitting requirements. Landfills subject to this rule must comply with Federal Oregon Title V Operating Permit program Requirements (Title V) as specified in OAR 340-028-2100 through 340-028-2740 divisions 218 and 220 except as noted in (c) of this subsection:

(a) Existing large landfills must submit a complete Federal Oregon Title V Operating Permit application one year after EPA approves the 111(d) State Plan associated with this rule;

(b) Existing small landfills that are major sources as defined in OAR 340-028-0110200-0020 must submit a complete Federal Operating Permit application within one year of becoming a major source:

(c) The exemption from the Oregon Title V Operating Permit program in OAR 340-028-2110(4)(e)218-0020 for sources that are not major does not apply to sources subject to this rule.

(4) Reporting requirements. Landfills subject to this rule must comply with the following:

(a) Large landfills listed in Subsection (1)(a) through (c) of this rule must comply with:

(A) Submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within 90 days of the effective date of this rule;

(B) Submit an annual Nonmethane Organic Compound Report until nonmethane emissions are 50 Mg/yr.

(b) Small landfills listed in Subsection (1)(a) through (c) of this rule must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within 90 days of the effective date of this rule.

(5) Definitions. As used in this rule:

(a) "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under **40 CFR 60.7(a)(4)**. Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of **40 CFR 258.60**;

(b) "Effective date" means the date this rule is filed with the Secretary of State;

(c) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has accepted waste at any time since 11/08/87 or has additional design capacity available for future waste deposition;

(d) "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters;

(e) "Modification" means an action that results in an increase in the design capacity of the landfill;

(f) "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification);

(g) "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after 5/30/91;

(h) "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468.020 & 468A.025

Stats. Implemented: ORS 468A.040

Hist.: DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; renumbered from OAR 340-025-0745.

TABLE I
(OAR 340-025-0110/236-0410)
PROCESS WEIGHT TABLE

<u>Process</u> <u>Wt/hr (lbs)</u>	<u>Maximum Weight</u> <u>Disch/hr (lbs)</u>	<u>Process</u> <u>Wt/hr (lbs)</u>	<u>Maximum Weight</u> <u>Disch/hr (lbs)</u>
50	.24	3400	5.44
100	.46	3500	5.52
150	.66	3600	5.61
200	.85	3700	5.69
250	1.03	3800	5.77
300	1.20	3900	5.85
350	1.35	4000	5.93
400	1.50	4100	6.01
450	1.63	4200	6.08
500	1.77	4300	6.15
550	1.89	4400	6.22
600	2.01	4500	6.30
650	2.12	4600	6.37
700	2.24	4700	6.45
750	2.34	4800	6.52
800	2.43	4900	6.60
850	2.53	5000	6.67
900	2.62	5500	7.03
950	2.72	6000	7.37
1000	2.80	6500	7.71
1100	2.97	7000	8.05
1200	3.12	7500	8.39
1300	3.26	8000	8.71
1400	3.40	8500	9.03
1500	3.54	9000	9.36
1600	3.66	9500	9.67
1700	3.79	10000	10.00
1800	3.91	11000	10.63
1900	4.03	12000	11.28

2000	4.14	13000	11.89
2100	4.24	14000	12.50
2200	4.34	15000	13.13
2300	4.44	16000	13.74
2400	4.55	17000	14.36
2500	4.64	18000	14.97
2600	4.74	19000	15.58
2700	4.84	20000	16.19
2800	4.92	30000	22.22
2900	5.02	40000	28.30
3000	5.10	50000	34.30
3100	5.18	60000	40.00
3200	5.27	or	
3300	5.36	more	

DIVISION 238

NEW SOURCE PERFORMANCE STANDARDS

Standards of Performance for New Stationary Sources

340-025-0505238-0010

Statement of Purpose

The U.S. Environmental Protection Agency has adopted in **Title 40, Code of Federal Regulations, Part 60**, Standards of Performance for certain new stationary sources. It is the intent of ~~OAR 340-025-0505 through 340-025-0845 and OAR 340-025-0950 through 340-025-1010~~ this division to specify requirements and procedures necessary for the Department to implement and enforce the aforementioned Federal Regulation.

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; renumbered from OAR 340-025-0505.

340-025-0515238-0020

Statement of Policy

It is the policy of the Commission to consider the performance standards for new and existing stationary sources contained in ~~OAR 340-025-0505 through 340-025-0845 and OAR 340-025-0950 through 340-025-1010~~ this division to be minimum standards; and, as technology advances, conditions warrant, and Commission or regional authority rules require or permit, additional rules may be adopted.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; renumbered from OAR 340-025-0515.

340-238-0030

Applicability

This division applies to stationary sources subject to 40 CFR Part 60 as adopted under OAR 340-238-0050 and 340-238-0060.

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.:

340-025-0510238-0040

Definitions

As used in OAR 340-025-0505 through 340-025-0845 and OAR 340-025-0950 through 340-025-1010: The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) "Administrator" means the Administrator of the EPA or authorized representative.

(2) "CFR" means Code of Federal Regulations as revised as of July 1, 1998.

(3) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance.

(4) "Capital expenditures" means an expenditure for a physical or operational change to an existing facility which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal

Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.

(4) "CFR" means Code of Federal Regulations revised as of July 1, 1999.

(5) "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under **40 CFR 60.7(a)(4)**. Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of **40 CFR 258.60**.

(6) "Commenced" means, with respect to the definition of "new source" in section 111(a)(2) of the federal Clean Air Act that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(7) "Construction" means fabrication, erection, or installation of a facility.

(8) "Department" means the Department of Environmental Quality or, in the case of Lane County, the Lane Regional Air Pollution Authority.

(9) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

(10) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has accepted waste at any time since 11/08/87 or has additional design capacity available for future waste deposition.

(11) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(12) "Existing facility" means, with reference to a stationary source, any apparatus of the type for which a standard is promulgated in **40 CFR Part 60**, and the construction or modification of which commenced before the date of proposal by EPA of that standard; or any apparatus which could be altered in such a way as to be of that type.

(13) "Facility" means all or part of any public or private building, structure, installation, equipment, vehicle or vessel, including, but not limited to, ships.

(14) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(15) "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters.

(16) "Modification"

(a) except as provided in subsection (b) of this section, means any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted;

(b) As used in OAR 340-238-0100 means an action that results in an increase in the design capacity of a landfill.

(17) "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification).

(18) "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after 5/30/91.

(19) "Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by an applicable reference method, or an equivalent or alternative method.

(20) "Reconstruction" means the replacement of components of an existing facility to such an extent that:

(a) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility; and

(b) It is technologically and economically feasible to meet the applicable standards set forth in **40 CFR Part 60**.

(21) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in **40 CFR Part 60** (July 1, 1998/1999).

(21) "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.

~~(1722)~~ "Standard" means a standard of performance proposed or promulgated under **40 CFR Part 60**.

~~(1823)~~ "State Plan" means a plan developed for the control of a designated pollutant provided under **40 CFR Part 60**.

~~(1924)~~ "Stationary source" means any building, structure, facility, or installation that emits or may emit any air pollutant subject to regulation under the federal Clean Air Act.

~~(2025)~~ "Volatile organic compounds" or "VOC" means any organic compounds that participate in atmospheric photochemical reactions; or that are measured by a reference method, an equivalent method, an alternative method, or that are determined by procedures specified under any applicable rule.

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; renumbered from OAR 340-025-0510.

340-025-0530238-0050

General Provisions

(1) Except as provided in section (2) of this rule, **40 CFR Part 60, Subpart A** (July 1, ~~1998~~1999) is by this reference adopted and incorporated herein.

(2) Where "Administrator" or "EPA" appears in **40 CFR Part 60, Subpart A**, "Department" shall be substituted, except in any section of **40 CFR Part 60** for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; renumbered from OAR 340-025-0530.

Performance Standards

340-025-0535238-0060

Federal Regulations Adopted by Reference

(1) Except as provided in section (2) of this rule, **40 CFR Part 60 Subparts D through XX and BBB through NNN and PPP through WWW** (July 1, ~~1998~~1999) are by this reference adopted and incorporated herein, and **40 CFR Part 60 Subpart OOO** (July 1, ~~1998~~1999) is by this reference adopted and incorporated herein for major sources only.

(2) Where "Administrator" or "EPA" appears in **40 CFR Part 60**, "Department" shall be substituted, except in any section of **40 CFR Part 60** for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.

~~(3) Where a discrepancy is determined to exist between OAR 340-025-0505 through 340-025-0845 and 40 CFR Part 60, 40 CFR Part 60 shall apply. 40 CFR Part 60 Subparts adopted by this rule are titled as follows:~~

(a) Subpart D - Fossil-fuel-fired steam generators for which construction is commenced after August 17, 1971;

(b) Subpart Da - Electric utility steam generating units for which construction is commenced after September 18, 1978;

(c) Subpart Db - Industrial-commercial-institutional steam generating units;

(d) Subpart Dc - Small industrial-commercial-institutional steam generating units;

(e) Subpart E - Incinerators;

(f) Subpart Ea - Municipal waste combustors for which construction is commenced after December 20, 1989 and on or before September 20, 1994;

(g) Subpart Eb - Municipal waste combustors for which construction is commenced after September 20, 1994;

(h) Subpart Ec - Hospital/Medical/Infectious waste incinerators that commenced construction after June 20, 1996, or for which modification is commenced after March 16, 1998;

(i) Subpart G - Nitric acid plants;

- (j) Subpart F - Portland cement plants;
- (i) Subpart G - Nitric acid plants;
- (k) Subpart H - Sulfuric acid plants;
- (l) Subpart I - Hot mix asphalt facilities;
- (m) Subpart J - Petroleum refineries;
- (n) Subpart K - Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after June 11, 1973, and prior to May 19, 1978;
- (o) Subpart Ka - Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after May 18, 1978, and prior to July 23, 1984;
- (p) Subpart Kb - Volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984;
- (q) Subpart L - Secondary lead smelters;
- (r) Subpart M - Secondary brass and bronze production plants;
- (s) Subpart N - Primary emissions from basic oxygen process furnaces for which construction is commenced after June 11, 1973;
- (t) Subpart Na - Secondary emissions from basic oxygen process steelmaking facilities for which construction is commenced after January 20, 1983;
- (u) Subpart O - Sewage treatment plants;
- (v) Subpart P - Primary copper smelters;
- (w) Subpart Q - Primary Zinc smelters;
- (x) Subpart R - Primary lead smelters;
- (y) Subpart S - Primary aluminum reduction plants;
- (z) Subpart T - Phosphate fertilizer industry: wet-process phosphoric acid plants;
- (aa) Subpart U - Phosphate fertilizer industry: superphosphoric acid plants;
- (bb) Subpart V - Phosphate fertilizer industry: diammonium phosphate plants;
- (cc) Subpart W - Phosphate fertilizer industry: triple superphosphate plants;
- (dd) Subpart X - Phosphate fertilizer industry: granular triple superphosphate storage facilities;
- (ee) Subpart Y - Coal preparation plants;
- (ff) Subpart Z - Ferroalloy production facilities;
- (gg) Subpart AA - Steel plants: electric arc furnaces constructed after October 21, 1974 and on or before August 17, 1983;
- (hh) Subpart AAa - Steel plants: electric arc furnaces and argon-oxygen decarburization vessels constructed after August 7, 1983;
- (ii) Subpart BB - Kraft pulp mills;
- (jj) Subpart CC - Glass manufacturing plants;
- (kk) Subpart DD - Grain elevators.
- (ll) Subpart EE - Surface coating of metal furniture;
- (mm) Subpart GG - Stationary gas turbines;
- (nn) Subpart HH - Lime manufacturing plants;
- (oo) Subpart KK - Lead-acid battery manufacturing plants;
- (pp) Subpart LL - Metallic mineral processing plants;
- (qq) Subpart MM - Automobile and light-duty truck surface coating operations;
- (rr) Subpart NN - Phosphate rock plants;
- (ss) Subpart PP - Ammonium sulfate manufacture;
- (tt) Subpart QQ - Graphic arts industry: publication rotogravure printing;
- (uu) Subpart RR - pressure sensitive tape and label surface coating operations;
- (vv) Subpart SS - Industrial surface coating: large appliances;
- (ww) Subpart TT - Metal coil surface coating;
- (xx) Subpart UU - Asphalt processing and asphalt roofing manufacture;
- (yy) Subpart VV - Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;
- (zz) Subpart WW - Beverage can surface coating industry;
- (aaa) Subpart XX - Bulk gasoline terminals;
- (bbb) Subpart BBB - Rubber tire manufacturing industry;
- (ccc) Subpart DDD - Volatile organic compound (VOC) emissions for the polymer manufacture industry;

- (ddd) Subpart FFF - Flexible vinyl and urethane coating and printing;
- (eee) Subpart GGG - equipment leaks of VOC in petroleum refineries;
- (fff) Subpart HHH - Synthetic fiber production facilities;
- (ggg) Subpart III - Volatile organic compound (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) air oxidation unit processes;
- (hhh) Subpart JJJ - Petroleum dry cleaners;
- (iii) Subpart KKK - Equipment leaks of VOC from onshore natural gas processing plants;
- (jjj) Subpart LLL - Onshore natural gas processing; SO2 emissions;
- (kkk) Subpart NNN - Volatile organic compound (VOC) emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations;
- (lll) Subpart OOO - Nonmetallic mineral processing plants (adopted by reference for major sources only);
- (mmm) Subpart PPP - Wool fiberglass insulation manufacturing plants;
- (nnn) Subpart QQQ - VOC emissions from petroleum refinery wastewater systems;
- (ooo) Subpart RRR - Volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes;
- (ppp) Subpart SSS - Magnetic tape coating facilities;
- (qqq) Subpart TTT - Industrial surface coating; surface coating of plastic parts for business machines;
- (rrr) Subpart UUU - Calciners and dryers in mineral industries;
- (sss) Subpart VVV - Polymeric coating of supporting substrates facilities;
- (ttt) Subpart WWW - Municipal solid waste landfills, as clarified by OAR 340-238-0100;

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; sections (1) thru (12) of this rule renumbered to 340-025-0550 thru 340-025-0605; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; renumbered from OAR 340-025-0535.

340-025-0800238-0070

Compliance

Compliance with standards set forth in ~~OAR 340-025-0505 through 340-025-0800~~ this division shall be determined by performance tests and monitoring methods as set forth in the Federal Regulation adopted by reference in OAR ~~340-025-0530238-0050~~.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; Renumbered from 340-025-0540; DEQ 15-1985, f. & ef. 10-21-85; Renumbered from 340-700-0000; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-025-0800.

340-025-0805238-0080

More Restrictive Regulations

If at any time there is a conflict between ~~OAR 340-025-0005 through 805~~ this division or regional authority rules and the Federal Regulation (**40 CFR, Part 60**), both shall apply.

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; Renumbered from 340-025-0545; DEQ 15-1985, f. & ef. 10-21-85; Renumbered from 340-025-0705; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-025-0805.

340-025-0520238-0090

Delegation

(1) The Lane Regional Air Pollution Authority (LRAPA) is authorized to implement and enforce, within its boundaries, the provisions of ~~OAR 340-025-0505 through 340-025-0845 and OAR 340-025-0950 through 340-025-1010~~ this division.

(2) The Commission may authorize LRAPA to implement and enforce its own provisions upon a finding that such provisions are at least as stringent as a corresponding provision in ~~OAR 340-025-0505 through 340-025-0845 and OAR 340-025-0950 through 340-025-1010~~ this division. LRAPA may implement and enforce provisions authorized by the Commission in place of any or all of ~~OAR 340-025-0505 through 340-025-0845 and OAR 340-025-0950 through 340-025-1010~~ this division upon receipt of delegation from EPA. Delegation may be withdrawn for cause by the Commission.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; renumbered from OAR 340-025-0520.

340-025-0740238-0100

Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction or Modification on or After May 30, 1991

(1) Applicability. ~~This rule applies to~~ The following small and large municipal solid waste landfills ~~in the following categories~~ must comply with 40 CFR Part 60, Subpart WWW:

(a) Landfills constructed after 5/30/91;

(b) Existing landfills with modifications after 5/30/91;

(c) Landfills that closed after 11/08/87 with modifications after 5/30/91.

~~(2) General Requirements. Landfills subject to this rule must comply with 40 CFR Part 60, Subpart WWW, as adopted under OAR 340-025-0535238-0060, except as noted in Section 4 of this rule.~~

~~(3) Permitting requirements. Landfills subject to this rule~~ 40 CFR Part 60, Subpart WWW must comply with Federal Oregon Title V Operating Permit Requirements (Title V) as specified in OAR 340-028-2100 through 340-028-2740 Divisions 218 and 220 ~~except as noted in (e) of this subsection:~~

(a) Existing large landfills with modifications after 5/30/91 must submit a complete Federal Operating Permit application by 3/12/97;

(b) Existing large landfills with modifications after 3/12/97 must submit a complete Federal Operating Permit application the earliest of one year from the date EPA approves the 111(d) State Plan for this rule, or within one year of the modification;

(c) New large landfills, which includes newly constructed large landfills after 3/12/96 and existing small landfills that become large landfills after 3/12/96 must submit a complete Federal Operating Permit application within one year of becoming subject to this requirement;

(d) New and modified existing small landfills that are major sources as defined in OAR 340-028-0110200-0020 must submit a complete Federal Operating Permit application within one year of becoming a major source;

~~(e) OAR 340-028-2110(4)(e) does not apply to sources subject to this rule.~~

(4) Reporting requirements. Landfills subject to ~~this rule~~ 40 CFR Part 60, Subpart WWW must comply with the following:

(a) Large landfills listed in Subsection (1)(a) through (c) of this rule must:

(A) Submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within 30 days of the effective date of this rule; and

(B) Submit an annual Nonmethane Organic Compound Report until nonmethane emissions are 50 mg/yr.

(b) Small landfills listed in Subsection (1)(a) through (c) of this rule must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within 30 days of the effective date of this rule;

(c) Landfills subject to this rule after the effective date of this rule must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within 30 days of becoming subject to this rule.

(5) Definitions. As used in this rule:

(a) ~~"Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed~~

under ~~40 CFR 60.7(a)(4)~~. Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of ~~40 CFR 258.60~~;

— (b) "Effective date" means the date this rule is filed with the Secretary of State;

— (c) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has accepted waste at any time since 11/08/87 or has additional design capacity available for future waste deposition;

(d) "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters;

— (e) "Modification" means an action that results in an increase in the design capacity of the landfill;

(f) "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification);

(g) "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after 5/30/91;

— (h) "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468.020 & 468A.025

Stats. Implemented: ORS 468A.040

Hist.: DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; renumbered from OAR 340-025-0740.

DIVISION ~~30240~~

~~SPECIFIC AIR POLLUTION CONTROL RULES FOR AREAS WITH UNIQUE AIR QUALITY CONTROL NEEDS~~

~~[ED. NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047 with the exception of OAR 340-030-0400 thru 340-030-0540.]~~

~~340-030-0005240-0010~~

~~Purpose and Application~~

~~The purpose of this Division is to deal specifically with the unique air quality control needs of areas of the state specified in the Medford-Ashland AQMA and Grants Pass UGB (OAR 340-030-0012240-0100 through 340-240-270), the La Grande UGB (340-030-0200240-0300 through 340-240-0360, and the Lakeview UGB (OAR 340-240-0400 through 340-240-0440)340-030-0400 and 340-030-0600. This Division shall apply in addition to all other rules of the Environmental Quality Commission. The adoption of this Division shall not, in any way, affect the applicability in the specified areas of all other rules of the Environmental Quality Commission and the latter shall remain in full force and effect, except as expressly provided otherwise. In cases of apparent conflict, the most stringent rule shall apply.~~

~~[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]~~

~~Stat. Auth.: ORS 468 & ORS 468A~~

~~Stats. Implemented: ORS 468A.025~~

~~Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0005.~~

~~40-030-0007240-0020~~

~~Emission limitations~~

~~Emission limitations established herein and stated in terms of pounds per 1,000 square feet of production shall be computed on an hourly basis using the maximum 8 hour production capacity of the plant.~~

~~[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]~~

~~Stat. Auth.: ORS 468 & ORS 468A~~

~~Stats. Implemented: ORS 468.020 & ORS 468A.025.~~

~~Hist.: DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-030-0007.~~

~~340-030-0010240-0030~~

~~Definitions~~

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

~~As used in this Division:~~

~~(1) "Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.~~

~~(2) "Air Conveying System" means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving airstream.~~

~~(3) "Average Operating Opacity" means the opacity of emissions determined using EPA Method 9 on any three days within a 12-month period which are separated from each other by at least 30 days; a violation of the average operating opacity limitation is judged to have occurred if the opacity of emissions on each of the three days is greater than the specified average operating opacity limitation.~~

~~(4) "Charcoal Producing Plant" means an industrial operation which uses the destructive distillation of wood to obtain the xed carbon in the wood.~~

~~(5) "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.~~

(6) "Department" means Department of Environmental Quality.

(7) "Design Criteria" means the numerical as well as verbal description of the basis of design, including but not necessarily limited to design flow rates, temperatures, humidities, contaminant descriptions in terms of types and chemical species, mass emission rates, concentrations, and specification of desired results in terms of final emission rates and concentrations, and scopes of vendor supplies and owner-supplied equipment and utilities, and a description of any operational controls.

(8) "Domestic Waste" means combustible household waste, other than wet garbage, such as paper, cardboard, leaves, yard clippings, wood, or similar materials generated in a dwelling housing four (4) families or less, or on the real property on which the dwelling is situated.

(9) "Dry Standard Cubic Foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions.

(10) "Emission" means a release into the outdoor atmosphere of air contaminants.

(11) "EPA Method 9" means the method for Visual Determination of the Opacity of Emissions From Stationary Sources described as Method (average of 24 consecutive observations) in the Department Source Sampling Manual (January, 1992).

(12) "Facility" means an identifiable piece of process equipment. A stationary source may be comprised of one or more pollutant-emitting facilities.

(13) "Fuel Burning Equipment" means a device which burns a solid, liquid, or gaseous fuel, the principal purpose of which is to produce heat, except marine installations and internal combustion engines that are not stationary gas turbines.

(14) "Fuel Moisture Content By Weight Greater Than 20 Percent" means bark, hogged wood waste, or other wood with an average moisture content of more than 20 percent by weight on a wet basis as used for fuel in the normal operation of a wood-fired veneer dryer as measured by ASTM D4442-84 during compliance source testing.

(15) "Fuel Moisture Content By Weight Less Than 20 Percent" means pulverized ply trim, sanderdust, or other wood with an average moisture content of 20 percent or less by weight on a wet basis as used for fuel in the normal operation of a wood-fired veneer dryer as measured by ASTM D4442-84 during compliance source testing.

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

(17) "General Arrangement", in the context of the compliance schedule requirements in section 340-002-0045(2), means drawings or reproductions which show as a minimum the size and location of the control equipment on a source plot plan, the location of equipment served by the emission-control system, and the location, diameter, and elevation above grade of the ultimate point of discharging contaminants to the atmosphere.

(18) "Grants Pass Urban Growth Area" and "Grants Pass Area" means the area within the Grants Pass Urban Growth Boundary as shown on the Plan and Zoning Maps for the City of Grants Pass as of 1 February 1988.

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

(20) "La Grande Urban Growth Area" means the area within the La Grande Urban Growth Boundary as shown on the Plan and Zoning Maps for the City of La Grande as of 1 October 1991.

(21) "Lakeview Urban Growth Area" means the area within the Lakeview Urban Growth Boundary as shown on the Plan and Zoning Maps for the Town of Lakeview as of 25 October 1993.

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

(23) "Lowest Achievable Emission Rate" or "LAER" is defined in OAR 340-028-0110200-0020.

(24) "Maximum Opacity" means the opacity as determined by EPA Method 9 (average of 24 consecutive observations).

(25) "Medford-Ashland Air Quality Maintenance Area" and "Medford-Ashland AQMA" is defined as beginning at a point approximately one mile NE of the town of Eagle Point, Jackson County, Oregon, at the NE corner of Section 36, T35S, R1W; thence south along the Willamette Meridian to the SE corner of Section 25, T37S, R1W; thence SE along a line to the SE corner of Section 9, T39S, R2E; thence SSE to the corner of Section 22, T39S, R2E; thence south to the SE corner of Section 27, T39S, R2E; thence SW to the SE corner of Section 33, T39S, R2E; thence NW to the NW corner of Section 36, T39S, R1E; thence west to the SW corner of Section 26, T39S, T1E; thence west to the SW corner of Section 12, T39S, R1W; thence NW along a line to the SW corner of Section 20, T38S, R1W; thence west to the SW corner of Section 24, T38S, R2W; thence NW along a line to the SW corner of Section 4, T38S, R2W; thence west to the SW corner of Section 5, T38S, R2W; thence NW along a line to the SW corner of Section 31, T37S, R2W; thence north along a line to the Rogue River,

thence north and east along the Rogue River to the north boundary of Section 32, T35S, R1W; thence east along a line to the point of beginning.

(26) "Modified Source" means any source with a major modification as defined in OAR 340-~~028-0110~~200-0020.

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

(28) "New Source" means any source not in existence prior to April 7, 1978 or any source not having an Air Contaminant Discharge Permit as of April 7, 1978.

(29) "Odor" means that property of an air contaminant that affects the sense of smell.

(30) "Offset" is defined in OAR 340-~~028-0110~~200-0020.

(31) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with the Department's Source Sampling Manual (January, 1992). Unless otherwise specified by rule, opacity shall be measured in accordance with EPA Method 9. For all standards, the minimum observation period shall be six minutes, though longer periods may be required by a specific rule or permit condition. Aggregate times (e.g. 3 minutes in any one hour) consist of the total duration of all readings during the observation period that exceed the opacity percentage in the standard, whether or not the readings are consecutive. Alternatives to EPA Method 9, such as a continuous opacity monitoring system (COMS), alternate Method 1 (LIDAR), or EPA Methods 22, or 203, may be used if approved in advance by the Department, in accordance with the Source Sampling Manual.

(32) "Open Burning" means burning conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in open outdoor fires, burn barrels, and backyard incinerators.

(33) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binders.

(34) "Particulate Matter" means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured in accordance with the Department Source Sampling Manual. Particulate matter emission determinations shall consist of the average of three separate consecutive runs. For sources tested using DEQ Method 5 or DEQ Method 7, each run shall have a minimum sampling time of one hour, a maximum sampling time of eight hours, and a minimum sampling volume of 31.8 dsf. For sources tested using DEQ Method 8, each run shall have a minimum sampling time of 15 minutes and shall collect a minimum particulate sample of 100 mg. Wood waste boilers and charcoal producing plants shall be tested with DEQ Method 5; veneer dryers, wood particle dryers, fiber dryers and press/cooling vents shall be tested with DEQ Method 7; and air conveying systems shall be tested with DEQ Method 8 (January, 1992).

(35) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

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

(37) "Rebuilt Boiler" means a physical change after April 29, 1988, to a wood-waste boiler or its air-contaminant emission control system which is not considered a "modified source" and for which the fixed, depreciable capital cost of added or replacement components equals or exceeds fifty percent of the fixed depreciable cost of a new component which has the same productive capacity.

(38) "Source" means any structure, building, facility, equipment, installation or operation, or combination thereof, which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person, or by persons under common control.

(39) "Standard Conditions" means a temperature of 60° Fahrenheit (15.6° Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 Kilograms per square centimeter).

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

(41) "Veneer Dryer" means equipment in which veneer is dried.

(42) "Wood-fired Veneer Dryer" means a veneer dryer which is directly heated by the products of combustion of wood fuel in addition to or exclusive of steam or natural gas or propane combustion.

(43) "Wigwam Fired Burner" means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for the incineration of wastes.

(44) "Wood Waste Boiler" means equipment which uses indirect heat transfer from the products of combustion of wood waste to provide heat or power.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468 & ORS 468A.

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 9-1979, f. & ef. 5-3-79; DEQ 3-1980, f. & ef. 1-28-80; DEQ 14-1981, f. & ef. 5-6-81; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 3-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-030-0010.

The Medford-Ashland Air Quality Maintenance Area and the Grants Pass Urban Growth Area

340-030-0012240-0100

Application Applicability

OAR 340-030-0012240-0100 through 340-030-0115240-0110 shall apply in the Medford-Ashland Air Quality Maintenance Area (AQMA) and the Grants Pass Urban Growth Area (Area), except that OAR 340-240-0130, 340-240-0180, and 340-240-0190 ~~where expressly provided that a rule applies~~ apply only in the Medford-Ashland AQMA.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0012.

340-030-0015240-0110

Wood Waste Boilers

(1) No person may cause or permit the emission of particulate matter from any wood waste boiler with a heat input capacity greater than 35 million BTU/hr in excess of 0.050 grain per dry standard cubic foot of exhaust gas, corrected to 12 percent carbon dioxide.

(2) No person owning or controlling any wood waste boiler with a heat input capacity greater than 35 million BTU/hour may cause or permit the emission of any air contaminant into the atmosphere for a period or periods aggregating more than 3 minutes in any one hour equal to or greater than 10 percent opacity, unless the permittee demonstrates by source test that the emission limit in paragraph (1) of this section can be achieved at higher visible emissions, but in no case may emissions equal or exceed 20% opacity for more than an aggregate of 3 minutes in any one hour. Specific opacity limits shall be included in the Air Contaminant Discharge Permit for each affected source.

(3) In accordance with the compliance schedule in 340-030-0046240-0200(2), no person may cause or permit the emission of particulate matter from any boiler with a heat input capacity greater than 35 million Btu/hour unless the boiler has been equipped with emission control equipment which:

(a) Limits emissions of particulate matter to LAER as defined by the Department at the time the Department approves the control device; and

(b) Limits visible emissions such that their opacity does not exceed 5% for more than an aggregate of 3 minutes in any one hour, unless the permittee demonstrates by source test that emissions can be limited to LAER at higher visible emissions, but in no case may emissions equal or exceed 10% opacity for more than an aggregate of 3 minutes in any one hour. Specific opacity limits shall be included in the Air Contaminant Discharge Permit for each affected source.

(c) For purposes of OAR 340-028-1020222-0040 and 340-028-1980268-0030, the boiler mass emission limits shall be based on particulate matter emissions of 0.030 grains per standard dry cubic foot, corrected to 12% CO₂.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 29-1980, f. & ef. 10-29-80; DEQ 14-1986, f. & ef. 6-20-86; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 22-1996, f. & cert. 10-22-96; renumbered from OAR 340-030-0015.

340-030-0021240-0120

Veneer Dryer Emission Limitations

(1) No person shall operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed the opacity limits specified in subsections (a) and (b) of this section or such that emissions of particulate matter exceed the mass emission limits of subsections (c) through (g) of this section:

(a) An average operating opacity of five percent; and

(b) A maximum opacity of ten percent, unless the permittee demonstrates by source test that the emission limits in subsections (c) through (g) of this section can be achieved at higher visible emissions than specified in subsections (a) and (b) of this section, but in no case shall emissions exceed the visible air contaminant limitations of OAR 340-025-0315234-0420(1)(b). Specific opacity limits shall be included in the Air Contaminant Discharge Permit for each affected source;

(c) 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct natural gas or propane fired veneer dryers;

(d) 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for steam heated veneer dryers;

(e) 0.40 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content by weight less than 20 percent;

(f) 0.45 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content by weight greater than 20 percent;

(g) In addition to subsections (e) and (f) of this section, 0.20 pounds per 1,000 pounds of steam generated in boilers which exhaust combustion gases to the veneer dryer.

(2) Exhaust gases from fuel-burning equipment vented to the veneer dryer are exempt from OAR 340-021-0020228-0210.

(3) No person shall operate a veneer dryer unless:

(a) The owner or operator has submitted a program and time schedule for installing an emission-control system which has been approved in writing by the Department as being capable of complying with subsections (1)(a) through (g) of this rule;

(b) The veneer dryer is equipped with an emission-control system which has been approved in writing by the Department and is capable of complying with subsections (1)(a) through (g) of this rule; or

(c) The owner or operator has demonstrated and the Department has agreed in writing that the dryer is capable of being operated and is operated in continuous compliance with subsections (1)(a) through (g) of this rule.

(4) Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable levels.

(5) No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule.

(6) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0021.

340-030-0025240-0130

Air Conveying Systems (Medford-Ashland AQMA Only)

All air conveying systems emitting greater than ten tons per year of particulate matter to the atmosphere at the time of adoption of this rule shall, with the prior written approval of the Department, be equipped with a control system with collection efficiency of at least 98.5 percent.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0025.

340-030-0030240-0140

Wood Particle Dryers at Particleboard Plants

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

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

Specific opacity limits shall be included in the Air Contaminant Discharge Permit for each affected source.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 14-1981, f. & ef. 5-6-81; DEQ 14-1986, f. & ef. 6-20-86; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0030.

340-030-0031240-0150

Hardboard Manufacturing Plants

(1) Emissions from Hardboard plants excluding press vents. No person shall cause or permit the total emissions of particulate matter from a hardboard plant, excluding press/cooling vents, to exceed 0.25 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

(2) Emissions from Hardboard plants including press vents. No person shall cause or permit the total emissions of particulate matter from a hardboard plant, including press/cooling vents, to exceed 0.55 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

(3) When calculating emissions for this section, emissions from truck dump and storage areas, fuel burning equipment, and refuse burning equipment are not included.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 14-1981, f. & ef. 5-6-81; DEQ 14-1986, f. & ef. 6-20-86; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 2-1996, f. & cert. ef. 1-29-96; renumbered from OAR 340-030-0031.

340-030-0035240-0160

Wigwam Waste Burners

No person owning or controlling any wigwam burner shall cause or permit the operation of the wigwam burner.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 29-1980, f. & ef. 10-29-80; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0035.

340-030-0040240-0170

Charcoal Producing Plants

(1) No person shall cause or permit the emission of particulate matter from charcoal producing plant sources including, but not limited to, charcoal furnaces, heat recovery boilers, and wood dryers using any portion of the charcoal furnace off-gases as a heat source, in excess of a total from all sources within the plant site of 10.0 pounds per ton of char produced (5.0 grams per Kilogram of char produced).

(2) Emissions from char storage, briquette making, boilers not using charcoal furnace off-gases, and fugitive sources are excluded in determining compliance with section (1) of this rule.

(3) Charcoal producing plants as described in section (1) of this rule shall be exempt from the limitations of OAR 340-~~21-0030~~226-0210 sections (1) and (2), and 340-~~021-0040~~226-0310 which concern particulate emission concentrations and process weight.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 14-1986, f. & ef. 6-20-86; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0040.

340-030-0043240-0180

Control of Fugitive Emissions (Medford-Ashland AQMA Only)

(1) All sawmills, all plywood mills and veneer manufacturing plants, particleboard and hardboard plants, charcoal manufacturing plants, asphalt plants, rock crushers, animal feed manufacturers, other major industrial facilities as identified by the Department, and sources subject to ~~OAR 340-021-0245 or OAR 340-030-0230240-0360~~ shall prepare and implement site-specific plans for the control of fugitive emissions. (The air contaminant sources listed are described in OAR 340-028-4750216-0090, **Table 41**, paragraphs 10, 14, 17, 18, 29, 34 and 42, respectively.)

(2) Fugitive emission-control plans shall identify reasonable measures to prevent particulate matter from becoming airborne. Special care will be taken by the facility to avoid the migration of material onto the public road system. Such reasonable measures shall include, but not be limited to the following:

(a) The systematic paving of all unpaved roads and areas on which vehicular traffic occurs. Until an area is paved, subsection (2)(b) applies;

(b) Scheduled application of asphalt, oil, water, or other suitable chemicals on unpaved roads, log storage or sorting yards, materials stockpiles, and other surfaces which can create airborne dust. Dust suppressant material must not adversely affect water quality;

(c) Periodic sweeping or cleaning of paved roads and other areas as necessary to prevent migration of material onto the public road system;

(d) Full or partial enclosure of materials stockpiled in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;

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

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

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

(h) Procedures for the prompt removal of earth or other material from paved streets.

(3) Reasonable measures may include landscaping and using vegetation to reduce the migration of material onto public and private roadways.

(4) The facility owner or operator must supervise and control fugitive emissions and material that may become airborne caused by the activity of outside contractors delivering or removing materials at the site.

(5) The site-specific fugitive dust emissions control plan shall be submitted to the Department prior to or within 60 days of permit issuance or renewal. The Department shall approve or deny the plan within 30 days.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047200-0040.]

[NOTE: The table referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 6-1983, f. & ef. 4-18-83; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 16-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-030-0043.

340-030-0044240-0190

Requirement for Operation and Maintenance Plans (Medford-Ashland AQMA Only)

(1) Operation and Maintenance Plans shall be prepared by all holders of Air Contaminant Discharge Permits except minimal source permits and insignificant discharge permits. All sources subject to regular permit requirements shall be subject to operation and maintenance requirements.

(2) The purposes of the operation and maintenance plans are to:

(a) Reduce the number of upsets and breakdowns in particulate control equipment;

(b) Reduce the duration of upsets and downtimes; and

(c) Improve the efficiency of control equipment during normal operations.

(3) The operation and maintenance plans should consider, but not be limited to, the following:

- (a) Personnel training in operation and maintenance;
- (b) Preventative maintenance procedures, schedule and records;
- (c) Logging of the occurrence and duration of all upsets, breakdowns and malfunctions which result in excessive emissions;
- (d) Routine follow-up evaluation of upsets to identify the cause of the problem and changes needed to prevent a recurrence;
- (e) Periodic source testing of pollution control units as required by air contaminant discharge permits;
- (f) Inspection of internal wear points of pollution control equipment during scheduled shutdowns; and
- (g) Inventory of key spare parts.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 6-1983, f. & ef. 4-18-83; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 22-1996, f. & cert. 10-22-96; renumbered from OAR 340-030-0044.

340-030-0046240-0200

Emission-Limits Compliance Schedules

(1) Compliance with the emission limits for wood-waste boilers in the Grants Pass area and veneer dryers established in OAR 340-~~030-0015~~240-0110(1) and (2) and 340-~~030-0021~~240-0120 shall be provided according to the following schedules:

- (a) By December 25, 1989, submit Design Criteria and a Notice of Intent to Construct for emission-control systems for Department review and approval;
- (b) Within three months of receiving the Department's approval of the Design Criteria, submit a General Arrangement and copies of purchase orders for the emission-control devices;
- (c) Within two months of placing purchase orders for emission-control devices, submit vendor drawings as approved for construction of the emission-control devices and specifications of other major equipment in the emission-control system (such as fans, scrubber-medium recirculation and make up systems) in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;
- (d) Within one year of receiving the Department's approval of Design Criteria, complete construction;
- (e) Within 15 months of receiving the Department's approval of Design Criteria, but no later than June 30, 1991, demonstrate compliance.

(2) Compliance with the emission limits for wood-waste boilers in OAR 340-~~030-0015~~240-0110(3) shall be provided according to OAR 340-~~030-0067~~240-0240 or the following schedule, whichever occurs first:

- (a) By no later than September 1, 1993, submit Design Criteria and a Notice of Intent to Construct for emission-control systems for Department review and approval;
- (b) Within three months of receiving the Department's approval of the Design Criteria, submit a General Arrangement and copies of purchase orders for the emission-control devices;
- (c) Within two months of placing purchase orders for emission-control devices, submit vendor drawings as approved for construction of the emission-control devices and specifications of other major equipment in the emission-control system (such as fans, scrubber-medium recirculation and make up systems) in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;
- (d) Within one year of receiving the Department's approval of Design Criteria, complete construction;
- (e) Within 15 months of receiving the Department's approval of Design Criteria, but no later than December 31, 1994, demonstrate compliance.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0046.

340-030-0050240-0210

Continuous Monitoring

(1) The Department will require the installation and operation of instrumentation for measuring and recording emissions and/or the parameters which affect the emission of air contaminants from wood-waste fired boilers, veneer dryers, fiber dryers, and particle dryers to ensure that the sources and the air pollution control equipment are operated at all times at their full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable level. The instrumentation shall be periodically calibrated. The method and frequency of calibration shall be approved in writing by the Department. Continuous monitoring equipment and operation shall be in accordance with continuous emission monitoring systems guidance provided by the Department and shall be consistent, where applicable, with the EPA performance specifications and quality assurance procedures outlined in **40 CFR 60, Appendices B and F**, and the **Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III**. The recorded information shall be kept for a period of at least one year and shall be made available to the Department upon request. The selection, installation, and use of the instrumentation shall be done according to the following schedule:

(a) By March 27, 1990, the persons responsible for the affected facilities shall submit to the Department a plan for process and or emission monitoring. The Department's primary criterion for review and approval of the plans will be the ability of proposed instrumentation to demonstrate continuous compliance with OAR ~~340-030-0012~~240-0100 through ~~340-030-0115~~240-0110;

(b) Within one year from the Department's approval of the plan(s), but no later than July 1, 1992, the persons responsible for the affected facilities shall purchase, install, place in operation the instrumentation as approved, verify that it is capable of demonstrating continuously the compliance status of the affected facilities, and commence continuous monitoring and reporting results to the Department, at a frequency and in a form agreed upon by the Department and the responsible persons;

(c) The implementation date in subsection (1)(b) of this section can be extended up to one year, subject to Department approval, if justified by the persons responsible for the affected facilities based on unavailability of suitable equipment or other problems.

(2) At a minimum, the monitoring plan submitted under paragraph (1)(a) of this section shall include:

(a) Continuous monitoring and monthly reporting of carbon monoxide concentration and oxygen concentration for any wood-waste fired boiler with a heat input capacity greater than 35 million BTU/hr or for any wood-waste boiler using a wet scrubber as pollution control equipment and steam production rate for any wood-waste fired boiler;

(b) Continuous monitoring and monthly reporting of pressure drop, scrubber water pressure, and scrubber water flow for any wood-waste fired boiler, veneer dryer, particle dryer, or fiber dryer using a wet scrubber as pollution control equipment;

(c) Continuous monitoring and monthly reporting of opacity for any wood-waste fired boiler not controlled by a wet scrubber; and

(d) Continuous availability by electronic means to the Department of the emission and performance data specified in subsection (2)(a) through (c) of this section for any wood-waste fired boiler subject to the emission requirements of OAR ~~340-030-0015~~240-0270.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

[Publications: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1996, f. & cert. 10-22-96; renumbered from OAR 340-030-0050.

340-030-0055240-0220

Source Testing

(1) The person responsible for the following sources of particulate emissions shall make or have made tests to determine the type, quantity, quality, and duration of emissions, and/or process parameters affecting emissions, in conformance with test methods on file with the Department at the following frequencies:

(a) Wood Waste Boilers with heat input capacity greater than 35 million Btu/hr. - Once every year;

(b) Veneer Dryers - Once every year during 1991, 1992, and 1993 and once every 3 years thereafter;

(c) Wood Particle Dryers at Hardboard and Particleboard Plants - Once every year;

(d) Charcoal Producing Plants - Once every year.

(e) Wood Waste Boilers with heat input capacity equal to or less than 35 million BTU/hr with dry emission control equipment - Once in 1992 and once every 3 years thereafter.

(2) Source testing shall begin at these frequencies within 90 days of the date by which compliance is to be achieved for each individual emission source.

(3) These source testing requirements shall remain in effect unless waived in writing by the Department because of adequate demonstration that the source is consistently operating at lowest practicable levels, or that continuous emission monitoring systems are producing equivalent information.

(4) Source tests on wood waste boilers shall not be performed during periods of soot blowing, grate cleaning, or other abnormal operating conditions. The steam production rate during the source test shall be considered the maximum permittee's steaming rate for the boiler.

(5) Source tests shall be performed within 90 days of the startup of air pollution control systems.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 14-1986, f. & ef. 6-20-86; DEQ 22-1988, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1996, f. & cert. 10-22-96; renumbered from OAR 340-030-0055.

340-030-0065240-0230

New Sources

New sources shall be required to comply with OAR 340-030-0015240-0110(3) and 340-030-0021240-0120 through 340-030-0111240-0260 immediately upon initiation of operation.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 22-1988, f. & cert. ef. 9-26-89; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0065.

40-030-0067240-0240

Rebuilt Boilers

Rebuilt boilers shall immediately comply with the requirements of OAR 340-030-0015240-0110(3) except that in the Grants Pass Urban Growth Area this provision will apply to sources that are rebuilt after they have complied with OAR 340-030-0015240-0110(1).

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 22-1988, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0067.

340-030-0070240-0250

Open Burning

No open burning of domestic waste shall be initiated on any day or at any time when the Department advises fire permit issuing agencies that open burning is not allowed because of adverse meteorological or air quality conditions.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0070.

340-030-0111240-0260

Emission Offsets

In the Medford-Ashland AQMA, emission offsets required in accordance with OAR 340-028-1930224-0050 or 340-028-1935-224-0060 for new or modified sources shall provide reductions in emissions equal to 1.2 times the emission increase from the new or modified sources.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 26-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-030-0111.

340-030-0115240-0270

Dual-Fueling Feasibility Study for Wood-Waste Boilers

(1) On or before July 1, 1994, the owner or operator of a plant site in the Medford-Ashland AQMA where the total heat input capacity from all wood-waste boilers is greater than 35 million Btu/hr shall submit to the Department the results of a dual-fueling feasibility study conducted in accordance with a study protocol submitted under section (2) of this rule which has been approved by the Department.

(2) On or before January 1, 1993, a person subject to section (1) of this rule shall submit to the Department for approval a study protocol to evaluate the feasibility, costs and benefits of implementing a program to provide alternate fueling capability after December 31, 1994, for wood-waste boilers during periods of actual, anticipated or potential exceedance of the ambient air quality standard for PM₁₀. The protocol shall identify the methodology and schedule for evaluating the adequacy of supply of natural gas and other alternate fuels during the winter months, the cost and technical feasibility of modifying existing wood-waste boilers, the air quality benefits and costs of fuel switching prior to or during periods of poor air quality, and relevant maintenance and operational concerns including start-up and shut-down impacts.

(3) One or more persons subject to section (1) of this rule may submit a combined study protocol to the Department, conduct a combined study and submit combined results to the Department. Such a combined study shall evaluate the cost and technical feasibility of modifying existing wood-waste boilers at the plant site of each participating person. The combined study may jointly evaluate fuel supply, air quality, and maintenance and operational concerns applicable to all participating persons. A combined study shall be conducted by an independent contractor hired by the participating persons and approved by the Department.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0115.

La Grande Urban Growth Area

340-030-0200240-0300

Application Applicability

OAR 340-030-0200240-0300 through 340-030-0230240-0360 shall apply in the La Grande Urban Growth Area.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0200.

340-030-0205240-0310

Compliance Schedule for Existing Sources

(1) Except as provided in sections (2) and (3) of this rule, compliance with applicable requirements of OAR 340-030-0200240-0300 through 340-030-0230240-0360 for a source that is located in the La Grande Urban Growth Area prior to November 15, 1991 shall be demonstrated as expeditiously as possible, but in no case later than the following schedule:

(a) No later than May 15, 1992, the owner or operator shall submit Design Criteria and a Notice of Intent to Construct for emission-control systems for Department review and approval; and if the Department disapproves the Design Criteria, the owner or operator shall revise the Design Criteria to meet the Department's objections and submit the revised Design Criteria to the Department no later than one month after receiving the Department's disapproval;

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

(c) No later than eight months after receiving the Department's approval of the Design Criteria, the owner or operator shall submit to the Department vendor drawings as approved for construction of any emission-control devices and

specifications of any other major equipment in the emission-control system in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

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

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

(f) No later than May 15, 1994, the owner or operator shall demonstrate compliance with the applicable contingency requirements.

(2) Section (1) of this rule shall not apply if the owner or operator has demonstrated by May 15, 1992 that the source is capable of being operated and is operated in continuous compliance with applicable requirements of OAR ~~340-030-0200~~240-0300 through ~~340-030-0230~~240-0360 and the Department has agreed with the demonstration in writing. The Department may grant an extension until November 15, 1992 for a source to demonstrate compliance under this section. The applicable requirements shall be incorporated in the Air Contaminant Discharge Permit issued to the source.

(3) The Department may adjust the schedule specified in subsections (1)(a) through (e) of this rule if necessary to ensure timely compliance with subsection (1)(f) of this rule or if necessary to conform to an existing compliance schedule with an earlier compliance demonstration date.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0205.

340-030-0210~~240-0320~~

Wood-Waste Boilers

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

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

(2) Particulate matter in excess of 0.05 grains per standard cubic foot, corrected to 12 percent CO₂.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0210.

340-030-0215~~240-0330~~

Wood Particle Dryers at Particleboard Plants

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

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

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0215.

340-030-0220~~240-0340~~

Hardboard Manufacturing Plants

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

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-~~020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0220.

340-030-0225240-0350

Air Conveying Systems

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

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

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

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-~~020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0225.

340-030-0230240-0360

Fugitive Emissions

The owner or operator of a large sawmill, any plywood mill or veneer manufacturing plant, particleboard plant, hardboard plant, or charcoal manufacturing plant that is located in the La Grande Urban Growth Area shall comply with OAR 340-~~030-0043-240-0180~~.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-~~020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-030-0230.

The Lakeview Urban Growth Area

340-030-0300240-0400

Application Applicability

OAR 340-~~030-0300240-0400~~ through 340-030-~~0340240-0440~~ shall apply in the Lakeview Urban Growth Area.

[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-~~020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468 A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 10-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-030-0300.

340-030-0310240-0410

Control of Fugitive Emissions

(1) Large sawmills, all plywood mills and veneer manufacturing plants, particleboard and hardboard plants, charcoal manufacturing plants, stationary asphalt plants, stationary rock crushers, and sources subject to OAR 340-~~021-0320240-0420~~ shall prepare and implement site-specific plans for the control of fugitive emissions.

(2) Fugitive emission control plans shall identify reasonable measures to prevent particulate matter from becoming airborne. Such reasonable measures shall include, but not be limited to the following:

(a) Scheduled application of asphalt, oil, water, or other suitable chemicals on unpaved roads, log storage or sorting yards, materials stockpiles, and other surfaces which can create airborne dust;

(b) Full or partial enclosure of materials stockpiled in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;

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

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

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

(f) Procedures for the prompt removal from paved streets of earth or other material which does or may become airborne.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468 A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 10-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-030-0310.

340-030-0320240-0420

Requirement for Operation and Maintenance Plans

(1) Operation and Maintenance Plans shall be prepared by all holders of Air Contaminant Discharge Permits except minimal source permits and insignificant discharge permits. All sources subject to regular permit requirements shall be subject to operation and maintenance requirements.

(2) The purposes of the operation and maintenance plans are to:

(a) Reduce the number of upsets and breakdowns in particulate control equipment;

(b) Reduce the duration of upsets and downtimes; and

(c) Improve the efficiency of control equipment during normal operations.

(3) The operation and maintenance plans should consider, but not be limited to, the following:

(a) Personnel training in operation and maintenance;

(b) Preventative maintenance procedures, schedule and records;

(c) Logging of the occurrence and duration of all upsets, breakdowns and malfunctions which result in excessive emissions;

(d) Routine follow-up evaluation of upsets to identify the cause of the problem and changes needed to prevent a recurrence;

(e) Periodic source testing of pollution control units as required by air contaminant discharge permits;

(f) Inspection of internal wear points of pollution control equipment during scheduled shutdowns; and

(g) Inventory of key spare parts.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ-10-1995, f. & cert. ef. 5-1-95; DEQ 22-1996, f. & cert. 10-22-96; renumbered from OAR 340-030-0320.

340-030-0330240-0430

Source Testing

The person responsible for the following sources of particulate emissions shall make or have made tests to determine the type, quantity, quality, and duration of emissions, and/or process parameters affecting emissions, in conformance with test methods on file with the Department at the following frequency: Wood Waste Boilers with total heat input capacity equal to or greater than 35 million Btu/hr. - Once every three years;

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ-10-1995, f. & cert. ef. 5-1-95; DEQ 22-1996, f. & cert. 10-22-96 ; renumbered from OAR 340-030-0330.

40-030-0340240-0440

Open Burning

No open burning of domestic waste shall be initiated on any day or at any time when the local air stagnation advisory forecasts adverse meteorological or air quality conditions.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ-10-1995, f. & cert. ef. 5-1-95 ; renumbered from OAR 340-030-0340.

DIVISION 242

RULES APPLICABLE TO THE PORTLAND AREA

Employee Commute Options Program

340-030-0800242-0010

What is the Employee Commute Options Program?

(1) The Employee Commute Options or "ECO" Program requires larger **employers** to provide commute options to encourage **employees** to reduce **auto trips** to the **work site**.

(2) ECO is one of several strategies included in the Ozone Maintenance Plan for the Portland Air Quality Maintenance Area. The Ozone Maintenance Plan will keep the area in compliance with the federal ozone standard through the year 2006, despite the area experiencing unprecedented growth.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-031-030-0800.

340-030-0810242-0020

Who is Subject to ECO?

ECO applies to employers within the Portland Air Quality Maintenance Area (AQMA) with more than 50 employees at a work site. The Portland Air Quality Maintenance Area is defined in Oregon Administrative Rules (OAR) ~~340-031-0500204-010~~ and is illustrated in **Figure 1**.

[NOTE: The term "employer", and several other terms, are used throughout these rules as defined in Definitions of Terms, OAR ~~340-030-0840242-0050~~.]

[NOTE: The Figure(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0810.

340-030-0820242-0030

What Does ECO Require?

Employers must provide commute options that have the potential to reduce employee commute auto trips by ten percent within three years. Employers must continue to provide commute options that have the potential to achieve and maintain the reduced auto trip rate throughout the life of the ozone maintenance plan (until 2006). Options are available for alternative emission reduction measures, credits for past actions, and exemptions.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0820.

340-030-0830242-0040

How Does the Department Enforce ECO?

Enforcement procedures and civil penalties in OAR, Chapter 340, Division 12 apply. Under OAR 340-012-0050(2), violations of the **ECO rules** are Class Two violations. Failure to achieve a ten percent trip reduction is not a violation; failure to make a good faith effort toward, or prepare and implement a plan designed to achieve, a ten percent trip reduction is a violation. Civil penalties are determined by the penalty matrix under OAR 340-012-0042. Penalties determined from this

natrix can range from \$50 to \$10,000 for each day of each violation, but typically range from \$500 to \$2000 for each day of each violation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0830.

340-030-0840242-0050

Definitions of Terms Used in These Rules

As used in The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to OAR 340-030-0800242-0010 through 1080:340-242-0290. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to OAR 340-242-0010 through 340-242-0290.

- (1) "**AQMA**" means the Portland Air Quality Maintenance Area.
- (2) "**Auto Trip**" means a commute trip taken by vehicle to a work site.
- (3) "**Auto Trip Rate**" means the number of commute vehicles arriving at a work site divided by the number of employees that report to the work site.
- (4) "**Baseline Auto Trip Rate**" means the daily average auto trip rate established by the baseline survey.
- (5) "**Baseline Survey**" means the employee survey administered at the beginning of the ECO program, according to the implementation schedule in ~~340-030-0920242-0130~~, **Table 1**.
- (6) "**Car/Vanpool**" means a motor vehicle occupied by two or more people traveling together for their commute trip that results in the reduction of a minimum of one auto trip.
- (7) "**Compressed Work Week**" means a schedule in which employees work their regularly-scheduled number of hours in fewer days per week or over a number of weeks (for example, a 40-hour, 8 hours per day, Monday through Friday work week is compressed into a 40-hour, 10 hours a day, Monday through Thursday work week.).
- (8) "**Department**" means the Oregon Department of Environmental Quality.
- (9) "**ECO Program**" or "**ECO Rules**" means ~~OAR 340-030-0800242-0010~~ through ~~340-030-1080242-0290~~.
- (10) "**Employee**" means any person on the employer's payroll, full or part-time (part time is 80 or more hours per 28-day period), for at least six consecutive months at the same work site, including business owners, associates, partners, and partners classified as professional corporations.
- (11) "**Employer**" means any person, business, educational institution, non-profit agency or corporation, government department or agency or other entity that employs more than 50 employees at a single work site.
- (12) "**Equivalent Emission Reduction**" means a reduction of vehicle emissions, or other sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x) emissions, that results in a reduction of VOC and NO_x emissions equal to the emission reduction resulting from one eliminated auto trip.
- (13) "**Metro**" means the regional government agency, Metropolitan Planning Organization.
- (14) "**New Employer**" means any employer establishing a work site within the Portland AQMA, or any employer within the Portland AQMA that expands employment at a single work site to more than 50 employees, after the effective date of the ECO rules.
- (15) "**Non-Scheduled Work Week**" means a work week with no regular daily scheduled starting or ending time, no scheduled work days, or employees are on-call. This does not include employees working a traditional "8 to 5" job who may work on a flexible schedule.
- (16) "**Target Auto Trip Rate**" means a rate ten percent less than the baseline auto trip rate.
- (17) "**Target Compliance Deadline**" means the date by which employers must demonstrate progress toward achieving and maintaining their target auto trip rate.
- (18) "**Telecommuting**" means the employees perform regular work duties at home, or at a work center closer to home than to work, rather than commuting to work. The employees may telecommute full time, or commute to work on some days and telecommute on others.
- (19) "**Vehicle**" or "**Auto**" means a highway vehicle powered by a gasoline or diesel internal combustion engine with fewer than sixteen adult passenger seating positions.

(20) “**Work site**” means a property that is owned or leased by an employer or employers under common control, including a temporary or permanent building, or grouping of buildings that are in actual physical contact or separated only by a private or public roadway or other right-of-way.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0840.

340-030-0850242-0060

Should All Employees at a Work Site be Counted?

The count of employees at a work site must include:

- (1) Employees from all shifts, Monday through Friday, during a 24-hour period, averaged over a 12-month period;
- (2) Employees on the employer’s payroll for at least six consecutive months at one work site; and
- (3) Part-time employees assigned to a work site 80 or more hours per 28-day-period; but
- (4) Excludes volunteers, disabled employees (as defined under the Americans with Disabilities Act), employees working on a **non-scheduled work week**, and employees required to use a personal **vehicle** as a condition of employment.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0850.

340-030-0860-242-0070

What are the Major Requirements of ECO?

To comply with ECO, employers must:

- (1) Conduct a **baseline survey** of employees to establish a **baseline auto trip rate** (or provide documentation of the current auto trip rate that is at least as accurate as a survey would provide);
- (2) Calculate a target auto trip rate by reducing the baseline auto trip rate by 10 percent;
- (3) Submit a registration form as supplied by the **Department**;
- (4) Design and implement a trip reduction strategy that has the potential to achieve the target auto trip rate by the **target compliance deadline** (see *Table 1 for the implementation schedule*), and the potential to maintain the target auto trip rate through 2006;
- (5) Either:
 - (a) Prepare and implement an auto trip reduction plan for each work site and submit the plan to the Department for approval, OR

NOTE: Enforcement will be based upon implementing the approved plan, see OAR 340-030-0900242-0110.

(b) Provide written notice to the Department of the intent to achieve the target auto trip rate without an approved plan.

NOTE: Enforcement will be based on good faith effort, see OAR 340-030-0970242-0180 and special requirements in OAR 340-030-0900242-0110.

(6) Survey employees annually, report survey findings to the Department, and

NOTE: Reporting dates are different for those not submitting a plan, see OAR 340-030-0890242-0100.

(7) Continue to implement strategies to achieve or maintain the target auto trip rate through 2006.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0860.

340-030-0870242-0080

What are the Registration Requirements?

- (1) Employers must submit a registration form to the Department on forms provided by the Department.
- (2) Employers with multiple work sites may submit one application for all work sites.
- (3) The application must be submitted according to the schedule in **Table 1**.

(4) Baseline survey findings must be submitted with the registration form in the format described on the registration form.
[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0870.

340-030-0880242-0090

What are the Requirements for an Employee Survey?

- (1) Employers may use the survey form provided by the Department or an alternate instrument. Any alternate survey instrument must be approved by the Department before use and must provide an opportunity for employees to indicate an interest in a **carpool** matching program;
- (2) The employer must distribute the survey form to all employees and achieve a minimum response rate of 75 percent;
- (3) Employers with more than 400 employees at a work site may survey a statistically valid random sample of employees and must follow the Department's guidelines for random sampling;
- (4) Survey forms must be distributed during the week following a typical work week for the employer and not bordering a holiday;
- (5) The baseline survey must not be distributed to employees earlier than one year before reporting the results to the Department (older baseline surveys can be used to apply for credit, see OAR 340-030-1040242-0250);
- (6) Follow-up surveys must not be distributed to employees earlier than 90 days before reporting the results to the Department;
- (7) Employers must report survey findings to the Department annually, according to the schedule in **Table 1**;
- (8) Once an employer achieves the target auto trip rate, the employer may survey every two years; and
- (9) An alternative method may be substituted for the survey. Alternative methods must be at least as accurate as survey findings and must be approved by the Department (such methods might include counting cars in an employee parking lot or conducting work site entrance verbal surveys).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0880.

340-030-0890242-0100

Special Requirements for Employers Intending to Comply Without an Approved Plan

- (1) Employers who choose to achieve the target auto trip rate without an approved plan must survey employees 18 months after the baseline survey was conducted;
- (2) Findings from the 18-month survey must be submitted to the Department according to the schedule in **Table 1**;
- (3) If an 18-month survey shows that the employer's progress toward the target auto trip rate is less than one-third of the target trip reduction, the employer must submit an auto trip reduction plan to the Department for approval within 60 days of submitting survey findings to the Department; and
- (4) Following the 18-month survey, employers must survey annually according to the schedule in **Table 1**.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0890.

340-030-0900242-0110

What if an Employer Does Not Meet the Target Auto Trip Rate?

- (1) An employer with an approved plan who has fully implemented its plan yet has not achieved its target **auto trip rate** by the target compliance date, or does not maintain its target rate on annual basis, must submit a revised plan within 60 days following the target compliance date in any given year (according to **Table 1**). If an employer has not fully implemented its plan, the employer is subject to an enforcement action by the Department.

(2) An employer selecting not to submit a plan who does not achieve its target auto trip rate by the target compliance date (see **Table 1**) must demonstrate that a **good faith effort** was made to achieve the target rate. Requirements for documenting good faith effort are described in ~~340-030-0970~~242-0180. The employer must also submit a trip reduction plan within 60 days following the target compliance date. If an employer cannot demonstrate that a good faith effort was made, the employer is subject to an enforcement action by the Department.

(3) An employer will not be required to submit further plan revisions to its initial plan if, after fully implementing two revisions, the target auto trip rate is not reached. The employer must maintain strategies identified in its plan, or revisions to that plan, that resulted in improvements to the auto trip rate.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0900.

340-030-0910~~242-0120~~

How Will Employers Demonstrate Progress Toward the Target Auto Trip Rate?

Employers must submit employee survey findings, including a calculated auto trip rate, to the Department. The Department will compare the annually reported auto trip rate with the employer's target auto trip rate.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0910.

340-030-0920~~242-0130~~

What is the Schedule Employers Must Follow to Implement ECO?

The schedule employers must follow to implement the ECO program is detailed in **Table 1**. Implementation is staggered and employer grouping is based on work site zip code. The Department will place any work site located in a zip code not listed in this rule in a group with the most closely associated zip code. An employer with multiple work sites in more than one zip code may follow one schedule for all work sites with approval from the Department.

Table 1

IMPLEMENTATION SCHEDULE

Registration Forms Due

Group 1 — 11-1-96

Group 2 — 2-1-97

Group 3 — 5-1-97

Group 4 — 8-1-97

Baseline Surveys Due

Group 1 — 11-1-96

Group 2 — 2-1-97

Group 3 — 5-1-97

Group 4 — 8-1-97

Plans - Notices of Intent To Comply w/o a Plan Due

Group 1 — 2-1-97

Group 2 — 5-1-97

Group 3 — 8-1-97

Group 4 — 11-1-97

12-Month Surveys Due for Those with a Plan

- Group 1 — 11-1-97
- Group 2 — 2-1-97
- Group 3 — 5-1-98
- Group 4 — 8-1-98

18-Month Surveys Due for Those without a Plan

- Group 1 — 5-1-98
- Group 2 — 8-1-98
- Group 3 — 11-1-98
- Group 4 — 2-1-98

Surveys Due for Those with a Plan

- Group 1 — 11-1-98
- Group 2 — 2-1-99
- Group 3 — 5-1-99
- Group 4 — 8-1-99

Initial Target Compliance Date Surveys Due for all Employers

- Group 1 — 11-1-99
- Group 2 — 2-1-00
- Group 3 — 5-1-00
- Group 4 — 8-1-00

Annual Target Compliance Date Surveys Due for all Employers

- Group 1 — every 11-1 thru 2006
- Group 2 — every 2-1 thru 2006
- Group 3 — every 5-1 thru 2006
- Group 4 — every 8-1 thru 2006

Group 1 includes: Northeast zip codes: 97024, 97060, 97203, 97211, 97212, 97213, 97217, 97218, 97220, 97227, 97230, 97232;

Group 2 includes: Southeast zip codes: 97004, 97009, 97015, 97027, 97030, 97045, 97080, 97202, 97206, 97214, 97215, 97216, 97222, 97233, 97236, 97266, 97267;

Group 3 includes: Southwest zip codes: 97005, 97006, 97007, 97008, 97034, 97035, 97036, 97062, 97068, 97070, 97106, 97113, 97119, 97132, 97140, 97219, 97223, 97224;

Group 4 includes: Northwest zip codes: 97116, 97123, 97124, 97133, 97201, 97204, 97205, 97207, 97208, 97209, 97210, 97221, 97225, 97229, 97231, 97258.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0920.

340-030-0930242-0140

How Should Employers Account for Changes in Work Force Size?

The target auto trip rate remains constant regardless of changes in work force size. Employers experiencing an annual increase or decrease in the number of employees reporting to a work site must simply maintain the target auto trip rate.

NOTE: For example, an employer has 200 employees and 180 autos arriving at the work site. The employer's baseline auto trip rate is 180 autos/200 employees, or .90. The target auto trip rate is .90 minus 10 percent, or .81. The employer's work force increases to 300 employees. The target auto trip rate remains .81. In order to maintain the target auto trip rate, auto trips to the work site cannot exceed (300 X .81), or 243 trips. Similarly, if the employer's work force decreases to 100 employees, the target auto trip rate remains .81, and auto trips to the work site cannot exceed (100 X .81) or 81 trips.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0930.

340-030-0940242-0150

How Can an Employer Reduce Auto Commute Trips to a Work Site?

Employee commute option programs include, but are not limited to:

- (1) Promoting carpool and vanpool programs;
- (2) Offering transit subsidies;
- (3) Establishing **telecommuting** opportunities;
- (4) Offering **compressed work week** schedules;
- (5) Providing an emergency ride home program;
- (6) Sponsoring shuttle buses to and from transit terminals and/or during lunch hours for errands;
- (7) Improving facilities to promote bicycle use;
- (8) Establishing on-site amenities to decrease employees' need for a car at the work site;
- (9) Discontinuing parking subsidies and charging all employees for parking.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0940.

340-030-0950242-0160

What Should be Included in an Auto Trip Reduction Plan?

An auto trip reduction plan must include:

- (1) The results of the baseline survey (or comparable documentation);
- (2) Calculation of baseline and target auto trip rates;
- (3) Any employee commute option programs currently in use at the work site;
- (4) New commute options to be implemented at the work site that have the potential to achieve and maintain the target auto trip rate;
- (5) Empirical evidence that the commute option(s) to be offered or supported by the employer have the potential to achieve and maintain the target auto trip rate (employers may reference the Department's report **Alternatives to Single Occupant Vehicle Trips** or provide equivalent documentation);
- (6) Any unique aspects of the business or work site influencing the trip reduction strategies selected;
- (7) A schedule for implementing each of the selected commute option measures;
- (8) Any alternative emission reduction proposals prepared by the employer according to OAR 340-030-1030242-0240;
- (9) The name, title, telephone number, and business mailing address of the person designated by the employer as the contact for the work site (contact person does not have to be located at the work site); and a signed statement certifying that the documents and information submitted in the plan are true and correct to the best of that person's knowledge.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rules are available from the office of the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0950.

340-030-0960-242-0170

When Will the Department Act on a Submitted Auto Trip Reduction Plan?

The Department will approve or notify the employer of deficiencies in a submitted auto trip reduction plan, based on the criteria in OAR ~~340-030-0950~~242-0160, within 90 days or the plan will be automatically approved. The employer will have 30 days to correct the deficiencies and resubmit the plan to the Department. Plan approvals will be documented by letter from the Department to the employer. Employers must submit any subsequent plan modifications to the Department for review and approval. If the employer objects to any condition or limitation in the Department's letter, the employer may request a contested case hearing before the Commission or its authorized representative. Such a request for hearing must be made in writing to the Director and received by the Department within 20 days of the date of mailing of the letter. Any subsequent hearing will be conducted pursuant to the provisions of ORS Chapter 183 and OAR Chapter 340, Division 11.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0960.

~~340-030-0970~~242-0180

What is a Good Faith Effort?

Employers who choose not to submit a plan and then fail to meet their target auto trip rates must demonstrate that a good faith effort was made to meet the target trip reduction. An employer must demonstrate good faith effort by submitting written documentation of the following:

(1) Employer established a baseline auto trip rate and corresponding target auto trip rate and conducted follow-up surveys to determine employee commute patterns and progress toward achieving the target trip reduction;

(2) Employer selected trip reduction strategies that had a reasonable likelihood of success based on documentation in the Department's report **Alternatives to Single Occupant Vehicle Trips** or equivalent documentation (for example, auto trip reduction experience by employers in a comparable region); and

(3) Employer fully implemented all selected strategies, or their equivalent, on a schedule that would have reasonably allowed the employer to achieve the target auto trip rate by the target compliance deadline.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rules are available from the office of the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0970.

~~340-030-0980~~242-0190

How Does the ECO Program Affect New Employers, Expanding Employers and Employers Relocating Within the Portland AQMA?

(1) An expanding employer who increases the number of employees at any single work site within the Portland AQMA to more than 50 after the effective date of the ECO rules must comply with the ECO rules. An employer relocating a work site within the Portland AQMA is considered a **new employer** upon relocation and must set a new baseline and target auto trip rate and comply with the ECO rules. Relocating employers may apply for credit for existing trip reductions that carry over to the new work site. Expanding employers and new employers must meet the requirements of this rule within the following number of days after they become affected employers:

(a) Survey employees and submit survey findings and a registration form within 90 days;

(b) Select strategies that have the potential to meet the target trip reduction and submit a trip reduction plan or notice of intent to reduce trips without an approved plan within 180 days; and

(c) Conduct annual follow-up surveys and report findings to the Department within 90 days of surveying.

(2) An employer affected by this rule may choose to demonstrate compliance through ~~340-030-1050~~242-0260(5) (*use of area average rate*).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0980.

~~340-030-0990242-0200~~

Can a New or Relocating Employer Comply with ECO Through Restricted Parking Ratios?

An employer locating at a work site within the AQMA after the effective date of the ECO rules will be exempt from the ECO rules for that work site if:

(1) The new work site meets the requirements of the Department's Voluntary Parking Ratio rules (OAR ~~340-030-1100242-0300~~ through ~~340-030-1190242-0390~~); OR

(2) If the employer provides free or subsidized parking, including leased parking, above the Department's maximum parking ratio to any employees at the work site (except to employees required to have a vehicle at the work site as a condition of employment), then either:

(a) A transportation allowance is offered to those employees provided free or subsidized parking that exceeds the Department's maximum parking ratio. The transportation allowance must be offered in lieu of the free or subsidized parking in an amount equal to or greater than the amount of the subsidy, but not to exceed the maximum allowed for transit by the Internal Revenue Service for the Qualified Transportation Fringe Benefits included under Section 132(F), Notice 94-3 of the tax code; OR

(b) All employees at the work site are offered a transit subsidy or its equivalent at least equal to 50 percent of the value of a Tri-Met all-zone transit pass.

(3) An employer must submit this documentation with an exemption application to the Department by the deadline for plan or notice submittal specified in Table 1. Employers meeting the requirements of this rule do not need to conduct a baseline survey of employees. However, employers whose applications are denied must then conduct a baseline survey and submit the findings to the Department within 90 days of notice by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-0990.

~~340-030-1000242-0210~~

Can an Existing Employer Comply with ECO Through Restricted Parking Ratios?

An employer will be considered to have met the target trip reduction and is exempt from the ECO rules if the employer provides documentation of the following. An employer must submit this documentation with an exemption application to the Department by the deadline for plan or notice submittal specified in **Table 1**. Employers meeting the requirements of this rule do not need to conduct a baseline survey of employees. However, employers whose applications are denied must then conduct a baseline survey and submit the findings to the Department within 90 days of notice by the Department.

(1) Work site is located in an area with maximum parking ratio requirements at least as stringent as the Department's maximum parking ratios (see OAR ~~340-030-1100242-0300~~ through ~~340-030-1190242-0390~~);

(2) Free or subsidized all-day parking is generally unavailable within a one-half mile radius of the work site; and

(3) If the employer provides free or subsidized parking, including leased parking, above the Department's maximum parking ratio to any employees at the work site (except to employees required to have a vehicle at the work site as a condition of employment), then either:

(a) A transportation allowance is offered to those employees provided free or subsidized parking that exceeds the Department's maximum parking ratio. The transportation allowance must be offered in lieu of the free or subsidized parking in an amount equal to or greater than the amount of the subsidy, but not to exceed the maximum allowed for transit by the Internal Revenue Service for the Qualified Transportation Fringe Benefits included under Section 132(F), Notice 94-3 of the tax code; OR

(b) All employees at the work site are offered a transit subsidy or its equivalent at least equal to 50 percent of the value of a Tri-Met all-zone transit pass.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1000.

340-030-1010242-0220

What if an Employer Has More Than One Work Site Within the Portland AQMA?

(1) An employer with more than one work site in the Portland AQMA may average its target trip reduction among those work sites in the AQMA. An employer must survey all included work sites annually. Survey findings may be reported in aggregate or separately.

(2) One trip reduction plan may be developed for all work sites of an individual employer, but strategies must be selected based on the specific transportation characteristics of each work site.

(3) Work sites with 50 or fewer employees may be included in the interest of averaging trip reductions among all work sites. Those work sites must then survey according to the schedule in **Table 1** and findings must be included in the employer's report to the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1010.

340-030-1020242-0230

Can Employers Submit a Joint Plan?

Different employers with work sites located near each other and with common transportation needs may develop a joint trip reduction plan for all affected work sites. The plan must address each work site individually and each employer is individually accountable for meeting all ECO requirements. Each employer must report survey findings for each specific work site, and the ten percent trip reduction target applies to each employer's work sites. Trip reductions may not be averaged among employers.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1020.

340-030-1030242-0240

Are There Alternatives to Trip Reduction?

Alternatives to trip reduction include:

(1) Employers may purchase surplus trip reductions from other employers required to comply with ECO to meet part or all of the target trip reduction. Surplus trips must be documented by survey before sale and must be maintained through the year 2006. The Department must approve proposed transactions prior to finalizing. The Department will confirm surplus trip transactions by letter to both employers.

(2) Employers may substitute **equivalent emission reductions** to meet their target trip reduction. Equivalent emission reduction proposals must be included in the employer's trip reduction plan or submitted with the notice of intent to comply without an approved plan. In order to receive credit as an equivalent emission reduction, the Department must review and approve proposals before an employer implements the strategy. Employers selecting equivalent emission reduction strategies must meet the following requirements:

(a) Employer sufficiently documented emission calculations so that the Department can quantify and verify the reduction;

(b) Employer calculated equivalent emissions according to guidelines issued by the Department. The Department must approve any alternate or modified calculation methods;

(c) Employer submits, on the same schedule as the annual survey findings, documentation of actual equivalent emissions achieved;

(d) Equivalent emission reductions may not be bought or sold between employers for the purpose of meeting the target trip reduction.

(3) Employers may contribute to an emission reduction fund at an annual rate of \$100 per employee at the work site (see OAR 340-030-0850242-0060 to determine count of employees). An employer making partial progress toward the target trip reduction may choose to contribute proportionate to the percentage of the target trip reduction yet to be achieved. The emission reduction fund will be administered through **Metro** for new transit service, local jurisdiction alternative mode projects, and business-based Transportation Management Association (TMA) programs that result in trip reductions.

Employers must make annual payments over the compliance period. The amount will be adjusted annually according to the Consumer Price Index.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1030.

~~340-030-1040~~242-0250

What Alternatives Qualify as Equivalent Emission Reductions?

Equivalent emission reduction alternatives at the work site include, but are not limited to, the following:

- (1) Use of alternative fueled vehicles (employer or employee vehicles);
- (2) Vehicle scrappage (older high-emitting employee or employer vehicles);
- (3) Forklift replacement (lower emitting technology);
- (4) Lawn mower replacement (may include lawn mowers employees use at home if home is located within the Portland AQMA);
- (5) Motor boat motor replacement (may include motor boats owned by employees who live within the Portland AQMA);
- (6) Reductions in air pollution emissions from non-vehicle sources at the work site;
- (7) Reductions in non-commute vehicle traffic to the work site or within the work site.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1040.

~~340-030-1050~~242-0260

Can Employers Get Credit for Existing Trip Reduction Programs?

The Department may grant credits for documented trip reductions that occurred at an employer's work site any time before establishing a baseline auto trip rate. Credits will be granted upon approval by the Department. The Department will approve or deny the employer's request for credit by letter to the employer. If the employer objects to any condition or limitation in that letter, the employer may request a contested case hearing as described in OAR 340-030-0960242-0170.

(1) Employers must demonstrate that pre-existing trip reduction programs resulted in actual trip reductions by providing:

- (a) A description of the trip reduction programs and how they were implemented;
- (b) The period of time that the programs have been in place;
- (c) Survey findings or comparable documentation that demonstrates a ten percent reduction in the auto trip rate for the work site; and

(d) Current survey findings or comparable documentation verifying the employer has maintained the reduced auto trip rate.

(2) Applications for credits must be submitted to the Department with the trip reduction plan or notice of intent to reduce trips without an approved plan, according to **Table 1**.

(3) Credits will not be discounted and will be granted on a one-for-one basis.

(4) Trips documented for the purpose of receiving credits may not be bought or sold to other employers for the purpose of meeting the target trip reduction.

(5) Alternately, an employer may choose to provide documentation that its single occupant vehicle commute rate, at the time of registration, is equal to or less than two standard deviations below the mean rate for the Metro transportation zone which includes the employer's work site. Commute data for Metro's transportation zones is available from the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1050.

~~340-030-1060~~242-0270

Are Exemptions Allowed if an Employer is Unable to Reduce Trips or Take Advantage of Alternate Compliance Options?

(1) An employer is fully exempt from OAR ~~340-030-0800~~242-0010 through ~~340-030-1080~~242-0290 if the employer submits reasonable documentation for each of the following:

(a) Work site is located in an area for which:

(A) Public transit service during work shift changes is less frequent than thirty minute intervals; or

(B) The public transit service point is further than one-half mile from employee's usual parking area; or

(C) Work shift changes occur between 8:30 p.m. and 5:30 a.m..

(b) Upon completing the employee survey and providing reasonable promotion for a **carpool** matching program, employees indicating a willingness to car/vanpool cannot be matched within the work site or through Tri-Met's carpool matching database or employee turnover rate is greater than 50 percent per year;

(c) The nature of employees' work requires them to perform their work at the work site or during specific hours and days, eliminating the possibility of telecommuting or compressed work weeks/hours; and

(d) No options exist for the employer to achieve equivalent emission reductions at no net annualized cost to the employer (including both capital and operating costs).

(2) Partial exemptions.

(a) The Department will grant a partial exemption for that portion of an employer's work force for which sections (1)(a) through (c) of this rule apply;

(b) The Department will grant a partial exemption for section (1)(d) of this rule in direct proportion to the remaining work trips to be reduced after quantifying all available equivalent emission reductions.

(3) Employers must submit requests for partial or total exemptions to the Department, on application forms provided by the Department, by the deadline for plan or notice submittal according to **Table 1**. The Department will approve or deny the employer's request for exemption by letter to the employer. If the employer objects to any condition or limitation in that letter, the employer may request a contested case hearing as described in OAR ~~340-030-0960~~242-0170.

(4) Employers must renew requests for exemptions every three years.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1060.

340-030-1070242-0280

Participation in the Industrial Emission Management Program

Employers that donate unused Plant Site Emission Limit (PSEL) to the Department's Industrial Emission Management program (see OAR ~~340-030-0700~~242-0400 through ~~340-030-0740~~242-0440) are exempt from the ECO rules for the life of the ozone maintenance plan (2006).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1070.

340-030-1080242-0290242-0290

What Kind of Records Must be Kept and for How Long?

Employers must maintain records at the work site or other central location within the nonattainment area for at least three years, and must make those records available to the Department upon request. Records must include:

(1) The contents and results of employee surveys or other information gathering efforts;

(2) A full description of all measures and incentives offered to employees and the associated employee responses;

(3) Other information associated with the development, implementation, evaluation, or modification of the trip reduction program.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1080.

Voluntary Maximum Parking Ratio Program

340-030-1100-242-0300

What is the Voluntary Parking Ratio Program?

The Voluntary Parking Ratio Program encourages property owners to voluntarily locate and design facilities that need less parking by building in a more pedestrian, bicycle and transit friendly manner.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1100.

340-030-1110-242-0310

Who can Participate in the Voluntary Parking Ratio Program?

Any property owner constructing a new development or a re-development of an existing site that adds new building floor area and requires new parking spaces in the Portland Air Quality Maintenance Area (AQMA) for the specific land uses defined below in ~~340-030-1160-242-0320~~

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1110.

340-030-1160-242-0320

Definitions of Terms and Land Uses

As used—The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-030-1100-242-0300 through 340-030-1190-242-0390. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0300 through 340-242-0390.

(1) General Definitions:

(a) "AQMA" means the Portland Air Quality Maintenance Area as defined in OAR ~~340-031-0500-204-0010~~.

(b) "CCTMP" means the Central City Transportation Management Plan as defined by ordinance number 169535 and resolution number 35472, adopted by City of Portland City Council December 6, 1995, effective January 8, 1996.

(c) "Department" means the Department of Environmental Quality.

(d) "Director" means the Director or the Director's designee.

(e) "Employee Commute Options Program" or "Employee Commute Options Rule" means OAR ~~340-030-0800-242-0010~~ through ~~340-030-1080-242-0290~~.

(f) "Gross Floor Area" means the total area expressed in square feet of all floors of a building that include halls, stairwells, elevator shafts, basements, mezzanines or upper floors but excludes structured parking. Gross floor area is measured to the outside surfaces of exterior wall.

(g) "Gross Leasable Area" means total building area expressed in square feet designed for tenant occupancy and exclusive use that includes basements, mezzanines or upper floors, but does not include stairwells, elevator shafts. Gross leasable area is measured to the inside surfaces of exterior walls. Gross leasable area is that area for which tenant pays rent; it is the area that produces income.

(h) "OAR" means Oregon Administrative Rules.

(i) "Parking Ratio Permit" means a permit in letter form issued by the Department, bearing the signature of the Director or designee, that specifies the property owner's requirements under the parking ratio program.

(j) "Parking Ratio Program" means the Voluntary Parking Ratio Program, OAR ~~340-030-1100-242-0300~~ through ~~340-030-1190-242-0390~~.

(k) "Parking Space" means any off-street area of space below, above or at ground level, open or enclosed that is used for parking one motor vehicle at a time. If the property owner intends to stack cars (valet parking) on-site and off-site, the total

area or areas used for parking must be calculated as parking spaces, not just the striped parking spaces. This does not include handicapped parking spaces officially designated pursuant to the **Americans with Disabilities Act**.

(l) "Property Owner" means individual, corporation, partnership, limited partnership (reflecting the proposed development), association, government, firm or joint stock company who owns title to real property.

(2) Land Use Definitions:

(a) "Bank with Drive-In and Walk-In" means banking facilities for motorists remaining in a vehicle and for someone walking into the building.

(b) "Commercial Retail" means either a free standing store or an integrated group of retail establishments planned, developed and managed as a unit. These retail facilities offer a variety of products, but do not include a separate grocery store.

(c) "Fast-food Restaurant with Drive-In Window" means a fast food restaurant with motor vehicle drive-in window order service.

(d) "General Office" means an office usually housing single or multiple tenants including, but not limited to, professional services; characterized by landscaped office park or campus-type atmosphere; a group of buildings where the tenant space is flexible to house a variety of uses including, but not limited to, start-up companies or small mature companies that require a variety of space, such as research and development, engineering, or biotechnology; or a facility that houses one or more agencies of city, county, state, federal or other governmental unit. These facilities may also include tenant and support services including, but not limited to, banks, restaurants and other small retail support services.

(e) "Light Industrial, Industrial Park, Manufacturing" means an area containing a number of industrial or related facilities such as office, warehouse, research and associated functions, manufacturing and fabrication; facilities that are diversified which may have a large number of small businesses and others with one or two dominant industries; or facilities with features including, but not limited to, craneways, heavy power, grade and/or dock level doors.

(f) "Medical Clinic/Hospital/Dental Clinic" means a facility that provides diagnostic outpatient care and is equipped to provide prolonged in-patient medical care.

(g) "Movie Theater" means indoor cinemas showing motion pictures. Live stage performances are not included in this and use.

(h) "Other Restaurants" means other establishments serving food for immediate consumption that are not classified as fast food with drive-in.

(i) "Place of Worship" means church, synagogue or other religious facility.

(j) "Schools" means a facility attended by students, including senior high school, junior college, technical college and university levels.

(k) "Sports Club and Recreational Facilities" means a facility offering multiple types of fitness activities including, but not limited to, basketball, tennis, racquetball, volleyball and basketball courts, weight training, aerobics, jazzercise, running. The facility may also include a sauna, swimming pool, game rooms and/or meeting rooms.

(l) "Supermarket" means a retail store selling a complete assortment of food and food preparation materials, household items, and other retail items; may include pharmacies, delicatessens, and snack bars.

(m) "Tennis and Racquetball Courts" means a facility where the predominant activity is tennis courts and/or racquetball courts; it may include exercise facilities.

(n) "Warehouse" means a facility that is primarily devoted to the storage of materials, but may also include some office and maintenance areas.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1160.

340-030-1120242-0330

How Does a Property Owner Comply with the Voluntary Parking Ratio Program?

A property owner complies by building no more than the number of parking spaces specified by maximum parking ratios in OAR ~~340-030-1190242-0390~~ and obtaining a Parking Ratio Permit from the Department.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363
Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1120.

340-030-1130-242-0340

What are the Incentives for Complying with the Voluntary Parking Ratio Program?

(1) Employers in the development receive an exemption from the Employee Commute Options program in OAR ~~340-030-0800242-0010~~ through OAR ~~340-030-1080242-0290~~.

(2) Property owners who require other air and water permits from the Department receive priority permit processing.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1130.

340-030-1140-242-0350

Why Do I Need a Parking Ratio Permit?

(1) The parking ratio permit formally documents the agreement with the Department to construct parking within the maximum parking ratio and it provides an enforcement mechanism if the property owner builds more parking without the Department's approval.

(2) The parking ratio permit formally exempts applicable employers from the Employee Commute Options rule requirements.

(3) The parking ratio permit formally provides priority permit processing for other air and water permits from the Department.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1140.

340-030-1150-242-0360

What is Required to Obtain a Parking Ratio Permit?

Any property owner who chooses to limit construction of parking facilities at its site must submit the following information:

(1) A completed permit application form;

(2) Identification of the proposed land uses in OAR ~~340-030-1160242-0320~~;

(3) A map showing the location of the site;

(4) A site plan showing the location of the parking and the total number of parking spaces proposed;

(5) Quantification of the gross leasable area and gross floor area of the buildings proposed for the site and the associated parking ratio;

(6) Facts about design and location features that will allow the facility to meet the trip demand with less parking. This can be documented by completing the Department's Parking Ratio Checklist or providing similar documentation.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1150.

340-030-1170-242-0370

How is the Parking Ratio Program Enforced?

(1) A Parking Ratio Permit is a written permit in letter form issued by the Department bearing the signature of the Director or his/her designee.

(2) The general permitting provisions of Oregon Administrative Rules, Chapter 340, Division 14 apply (issuance, renewal, denial, suspension), except that OAR 340-014-0025 (public notice requirement) does not apply.

(3) An employer is no longer exempt from the ECO rule requirements if the property owner fails to comply with the terms of the Parking Ratio letter permit.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1170.

340-030-1180242-0380

When Will the Department Act on a Submitted Permit Application?

(1) The Department will notify the applicant within 15 days of filing an application if further information is needed or if the application is complete.

(2) The Department will grant or deny a letter permit within 45 days of receiving a complete application.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1180.

340-030-1190242-0390

What are the Applicable Parking Ratios?

TABLE 1.

DEPARTMENT OF ENVIRONMENTAL QUALITY

VOLUNTARY MAXIMUM PARKING RATIOS FOR THE PORTLAND AQMA

Parking ratios are based on spaces per 1,000 sqft GLA means gross leasable area

GFA means gross floor area

CCTMP Areas: Downtown parking sectors 1-6, University District and River District parking sectors 3-5 of the CCTMP

Bank with Drive-In: River District parking sectors 3-5 — 4.3 (gfa) Bank with Drive-In is a prohibited land use in Downtown sectors 1-6, University District.

Bank with Walk-In — 1.0-2.0* (gfa)

Place of Worship — .25*(gfa)

Commercial Retail** — 1.0-2.0* (gfa)

Fast Food with Drive Thru: River District parking sectors 3-5 — 9.9 (gfa) Fast Food with Drive Thru is a prohibited land use in Downtown sectors 1-6, University District.

Other Restaurants — 1.0-2.0* (gfa)

General Office — .7-2.0* (gfa)

Light Industrial, Industrial Park, Manufacturing — .7 (gfa)

Medical & Dental — .07-2.0* (gfa)

Movie Theater — .25 (gfa)

Schools — 1.0-2.0* (gfa)

Sports Club & Recreational Facility — 1.0-2.08 (gfa)

Supermarket** — 1.0-2.0* (gfa)

Tennis & Racquetball Court — 1.0-2.0* (gfa)

Warehouse — .7 (gfa) This parking ratio applies to all sizes of warehouses

CCTMP Areas: Central Eastside parking sectors 2 & 3, Goose Hollow and Lloyd District of the CCTMP

Bank with Drive-In: Central Eastside parking sectors 2 & 3 and Lloyd District — 4.3 (gla) Bank with Drive-In is a prohibited land use in Goose Hollow.

Bank with Walk-In — 4.3 (gla)

Place of Worship — .5 (gfa)

Commercial Retail** — 4.1 (gfa)

Fast Food with Drive-Thru: Central Eastside parking sectors 2 & 3 and Lloyd District — 9.9 (gla) Fast Food with Drive Thru is a prohibited land use in Goose Hollow.

Other Restaurants — 15.3 (gla)

General Office — 2.0-2.5 (gfa)

Light Industrial, Industrial Park, Manufacturing — 1.6 (gfa)

Medical & Dental — 3.9 (gla)

Movie Theater — .3 (spaces per number of seats)

Schools — .2 (spaces per number of students & staff)

Sports Club & Recreational Facility — 4.3 (gla)

Supermarket** — 2.9 (gla)

Tennis & Racquetball Court — 1.0 (gla)

Warehouse — .3 (gla) This parking ratio applies to warehouses that are greater than 150,00 sq. ft.

CCTMP Areas: Lower Albina, North Macadam, Central Eastside parking sectors 1, 4-6 and River District 1 & 2 of the CCTMP

Bank with Drive-In — 4.3 (gla)

Bank with Walk-In — 4.3 (gla)

Place of Worship — .5 (gfa)

Commercial Retail** — 4.1 (gfa)

Fast Food with Drive-Thru — 9.9 (gla)

Other Restaurants — 15.3 (gla)

General Office — 2.7 (gla)

Light Industrial, Industrial Park, Manufacturing — 1.6 (gfa)

Medical & Dental — 3.9 (gla)

Movie Theater — .3 (spaces per number of seats)

Schools — .2 (spaces per number of students & staff)

Sports Club & Recreational Facility — 4.3 (gla)

Supermarket** — 2.9 (gla)

Tennis & Racquetball Court — 1.0 (gla)

Warehouse — .3 (gla) This parking ratio applies to warehouses that are greater than 150,000 sq. ft.

Outside CCTMP: Areas outside of CCTMP areas, but inside AQMA boundary

Bank with Drive-In — 4.3 (gla)

Bank with Walk-In — 4.3 (gla)

Place of Worship — .5 (gfa)

Commercial Retail** — 4.1 (gfa)

Fast Food with Drive-Thru — 9.9 (gla)

Other Restaurants — 15.3 (gla)

General Office — 2.7 (gla)

Light Industrial, Industrial Park, Manufacturing — 1.6 (gfa)

Medical & Dental — 3.9 (gla)

Movie Theater — .3 (spaces per number of seats)

Schools — .2 (spaces per number of students & staff)

Sports Club & Recreational Facility — 4.3 (gla)

Supermarket** — 2.9 (gla)

Tennis & Racquetball Court — 1.0 (gla)

Warehouse — .3 (gla) This parking ratio applies to warehouses that are greater than 150,000 sq. ft.

Note: *See parking ratios for specific parking sectors in Central City Transportation Management Plan (CCTMP) adopted by the Portland City Council December 6, 1995.

Note: **See the CCTMP for definition of the land uses Commercial Retail and Supermarket that are located in the CCTMP.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040]

[Publications: The publication(s) referred to or incorporated by reference in this rules are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.363

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-030-1190.

Specific Air Pollution Control Rules for the Portland AQMA and Portland Metro Area Industrial Emission Management Program

340-030-0700-242-0400

Industrial Emission Management Program Application Applicability

(1) OAR 340-030-0720242-0420 through 340-030-0740242-0440 apply to all sources that emit VOC and NO_x in within the boundaries of the Portland Air Quality Maintenance Area (AQMA), including the following and to the following additional sources:

(a) VOC and NO_x sources with a PSEL of 100 tons per year or greater within 25 miles of the Portland AQMA are subject to OAR 340-030-0720; and

(b) VOC and NO_x sources that are new major sources or major modifications within 30 kilometers of the Portland AQMA are subject to OAR 340-030-0730242-0430 and 340-030-0740242-0440.

(2) OAR 340-030-0730242-0430 and 340-030-0740242-0440 apply to new major sources and major modifications that emit CO within the Portland Metro Area, including new major sources and major modifications outside the Portland Metro Area that have a significant air quality impact within this area.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-022-0700.

340-030-0710242-0410

Definition Of Terms

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-242-0400 through 340-242-0440. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0400 through 340-242-0440.

(1) "PSEL" means the Plant Site Emission Limit of an individual air pollutant specified in an Air Contaminant Discharge Permit or Title V permit issued to a source by the Department, pursuant to OAR 340-028-1700 through 340-028-1770 division 216 or 218.

(2) "Unused PSEL" means the difference between a source's actual emissions and its permitted level or PSEL in 1990 or 1992, whichever is lower, as determined through the Department's emission inventory data.

(3) "Unused PSEL Donation Source" means any source that voluntarily returns to the Department unused PSEL, as part of the Unused PSEL Donation Program in OAR 340-030-0720242-0420.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-022-0710.

340-030-0720-242-0420

Unused PSEL Donation Program

(1) This program encourages owners or operators of VOC and NO_x sources identified in OAR 340-030-0700242-0400(1) to donate unused PSEL to the Department. Under this program, donations can be either permanent or temporary.

(2) VOC sources donating at least 35 percent of their unused PSEL and NO_x sources donating at least 50 percent of their unused PSEL will receive the following incentives and considerations from the Department for participating in this program:

(a) Exemption from the Employee Commute Options (ECO) Program in OAR 340-030-0800242-0010 through 340-030-1080242-0290 for the duration of the Portland Ozone Maintenance plan;

(b) Priority permit processing for any required air quality permit;

(c) In accordance with OAR 340-030-0730242-0430 and 340-030-0740242-0440(1), priority use of up to 50 percent of any remaining growth allowance. This applies only to sources making permanent donations, pursuant to section (3) of this rule; and

(d) Other considerations may be added to the donation agreement on a case-by-case basis, consistent with the Department's rules and statutes.

(3) The Department will adjust the PSEL of sources providing permanent donations to reflect the emissions donated. Permanent donations will result in adjustment to the source's baseline emission rate and PSEL, consistent with ~~be considered "emission reductions required by rule"~~ for purposes of the definition of "major modification" under OAR 340-028-0110200-0020 and changes to PSELs required by rule under OAR 340-028-1020222-0040.

(4) Temporary donations of unused PSEL must be for a minimum of five years for VOC and four years for ~~NO_x~~NO_x. The Department will adjust the PSEL of sources providing temporary donations to reflect the time period and emissions donated. Any source that desires a return of any temporary donation before the end of the donation period must obtain written approval from the Department. Approval will be granted only if the Department determines that excess temporary donations exist. Such approval will disqualify the source from receiving the incentives listed in section (2) of this rule.

(5) Sources participating in this program must enter into a donation agreement with the Department that identifies the commitments of both parties. Any such agreement is legally binding and enforceable.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-022-0720

340-030-0730242-0430

Industrial Growth Allowances

(1) This rule establishes industrial growth allowances for sources identified in OAR 340-030-0700242-0400. The amount of each growth allowance that is available is defined in the **State Implementation Plan** and is on file with the Department.

(2) The owner or operator of a proposed new major source or major modification emitting VOCs, NO_x, or CO may obtain a portion of the respective growth allowance pursuant to OAR 340-030-0740242-0440.

(3) If no emissions remain in the respective growth allowance, the owner or operator of the proposed major source or major modification shall provide offsets for CO emissions at a 1 to 1 ratio, and for VOC and NO_x emissions at a 1.1 to 1 ratio (i.e., demonstrate a 10% new reduction).

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040]

[Publications: The publication(s) referred to or incorporated by reference in this rules are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-022-0730.

340-030-0740242-0440

Industrial Growth Allowance Allocation

(1) The owner or operator of a proposed new major source or major modification emitting VOCs, NO_x, or CO, as identified in OAR 340-030-0700242-0400, may obtain a portion of any remaining emissions in the respective growth allowance based on the following conditions:

(a) Access is on a first-come-first-served basis, based on the submittal date of a complete permit application;

(b) Unused PSEL donation sources that meet the donation criteria specified in OAR 340-~~030-0720~~242-0420(2) have priority access to their respective growth allowance as a "tie-breaker" over non-donation sources; and

(c) No single source may receive an emissions allocation of more than 50% of any remaining growth allowance, or up to 10 tons per year, whichever is greater. On a case-by-case basis, the Environmental Quality Commission may approve an emissions allocation of greater than 50% upon consideration of the following:

(A) Information submitted by the source to the Department justifying its request for exceeding the 50% emissions allocation, based on significant economic, employment, or other benefits to the Portland area that will result from the proposed new major source or major modification;

(B) Information provided by the Department on other known new major sources or major modifications seeking an emissions allocation from the same growth allowance; and

(C) Other relevant information submitted by the source or the Department.

(2) To avoid jeopardizing maintenance of the ozone standard during the interim years of the plan, the Department will allocate only a portion of the VOC and NO_x growth allowances each year. The Department will track the use of emissions from the growth allowances and will notify unused PSEL donation sources by mail if either growth allowance is reduced by 50 percent. The amount of the growth allowance that can be allocated each year is identified in Section 4.50 of the **State Implementation Plan (SIP)**, which is on file with the Department.

(3) The amount of the CO growth allowance that can be allocated is identified in Section 4.51 of the SIP on file with the Department.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-~~020-0047~~200-0040]

[Publications: The publication(s) referred to or incorporated by reference in this rules are available from the office of the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist: DEQ 17-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-022-0740.

Gasoline Vapors from Gasoline Transfer and Dispensing Operations

340-022-0400242-0500

Purpose and Applicability

(1) Gasoline vapors contribute to the formation of ozone. OAR 340-~~022-0400~~242-0500 through 340-~~022-0403~~242-0520 require the control of gasoline vapors from gasoline transfer and dispensing operations.

(2) OAR 340-~~022-0400~~242-0500 through 340-~~022-0403~~242-0520 apply to gasoline dispensing facilities located within Clackamas, Multnomah and Washington Counties.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.040

Hist.: DEQ 7-1991, f. & cert. ef. 5-7-91 (and corrected 6-7-91); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 16-1996, f. & cert. ef. 8-14-96; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0400.

340-022-0401242-0510

Definitions

As used The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-~~022-0400~~242-0500 through 340-~~022-0403~~242-0520. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0500 through 340-242-0520.

(1) "Equivalent control" means the use of alternate operational and/or equipment controls for the reduction of gasoline vapor emissions, that have been approved by the Department, such that the aggregate emissions of gasoline vapor from the facility do not exceed those from the application of defined reasonably available control technology.

(2) "Gasoline" means any petroleum distillate having a Reid vapor pressure of four pounds per square inch (28 kilopascals) or higher, used as a motor fuel.

(3) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle, boat, or airplane gasoline tanks from stationary storage tanks.

(4) "Annual throughput" means the amount of gasoline transferred into or dispensed from a gasoline dispensing facility during 12 consecutive months.

(5) "Stage I vapor collection system" means a system where gasoline vapors are forced from a tank into a vapor-tight holding system or vapor control system through direct displacement by the gasoline being loaded.

(6) "Stage II vapor collection system" means a system where at least 90 percent, by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling are transferred to a vapor-tight holding system or vapor control system.

(7) "Substantially modified" means a modification of an existing gasoline-dispensing facility which involves the addition of one or more new stationary gasoline storage tanks or the repair, replacement or reconditioning of an existing tank.

(8) "Vapor control systems" means a system that prevents emissions to the outdoor atmosphere from exceeding 4.7 grains per gallon (80 grams per 1,000 liters) of petroleum liquid loaded.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 7-1991, f. & cert. ef. 5-7-91 (and corrected 6-7-91); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 16-1996, f. & cert. ef. 8-14-96; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0401.

340-022-0402-242-0520

General Provisions

(1) Notwithstanding the requirements of OAR ~~340-022-0110232-0070~~, no person shall transfer or allow the transfer of gasoline into storage tanks, at gasoline-dispensing facilities located in Clackamas, Multnomah or Washington Counties, whose annual throughput exceeds 120,000 gallons, unless the storage tank is equipped with:

(a) A stage I vapor collection system consisting of a vapor-tight return line from the storage tank, or its vent, to the gasoline transport vehicle;

(b) A properly installed on-site vapor control system connected to a vapor collection system; or

(c) An equivalent control system.

(2) A stage II vapor collection system is not required at gasoline-dispensing facilities that are not subject to the stage I requirements of this section.

(3) No owner and/or operator of a gasoline-dispensing facilities shall transfer or allow the transfer of gasoline into a motor vehicle fuel tank at gasoline-dispensing facilities located in Clackamas, Multnomah or Washington Counties whose annual throughput exceeds 600,000 gallons, unless the gasoline-dispensing facility is equipped with a stage II vapor collection system which must be approved by the Department before it is installed.

[NOTES:

-1- Underground piping requirements are described in OAR **340-150-001** through **340-150-003** and **40 CFR 280.20(d)**. Systems installed according to American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System" or Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems" or American National Standards Institute Standard B31.4 "Liquid Petroleum Transportation Piping System" are considered approved systems.

-2- Above-ground stage II equipment requirements are based on systems recently approved in other states with established stage II program. See the Oregon Department of Environmental Quality, Air Quality Division, for the list of approved equipment. Any other proposed equivalent systems must be submitted to the Department of Environmental Quality, Air Quality Division, for approval before installation.]

(4) Owners and/or operators of gasoline storage tanks, gasoline transport vehicles and gasoline-dispensing facilities subject to stage I or stage II vapor collection requirements must:

(a) Install all necessary stage I and stage II vapor collection and control systems, and make any modifications necessary to comply with the requirements;

(b) Provide adequate training and written instructions to the operator of the affected gasoline-dispensing facility and the gasoline transport vehicle;

(c) Replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the stage I and stage II vapor collection systems; and

(d) Connect and ensure proper operation of the stage I and stage II vapor collection systems whenever gasoline is being loaded, unloaded or dispensed.

(5) Approval of a stage I or stage II vapor collection system by the Department does not relieve the owner and/or operator of the responsibility to comply with other applicable codes and regulations pertaining to fire prevention, weights and measures and safety matters.

(6) Regarding installation and testing of piping for stage I and stage II vapor collection systems:

(a) Piping shall be installed in accordance with standards in OAR 340 Division 150;

(b) Piping shall be installed by a licensed installation service provider pursuant to OAR 340 Division 160; and

(c) Piping shall be tested prior to being placed into operation by an installation or tank tightness testing service provider licensed pursuant to OAR 340 Division 160.

(7) Owners and/or operators of gasoline-dispensing facilities subject to stage II vapor collection requirements must obtain and maintain a current stage II vapor collection permit from the Department. This permit shall be displayed or kept on file at the facility:

(a) Persons applying for this permit for any time period beginning after December 31, 1999 shall be subject to a biennial fee of \$200;

(b) The Department may issue stage II vapor collection permits for up to 10 years;

(c) Persons applying for a new permit with an effective date beginning before December 31, 1999 or in an odd numbered year shall pay the annual fee of \$100 and then will be billed for the biennial fee for the next biennial period;

(d) Fees shall be paid at the time of application and by December 1 in odd numbered years for the next biennial period.

(8) When a facility changes ownership, the new owner shall obtain a new stage II vapor collection permit, as described in section (7) of this rule above, within 60 days of the change of ownership.

(9) Persons subject to this rule shall apply for a renewal stage II vapor collection permit not less than 60 days prior to the expiration date of the existing permit. The biennial fee shall be included with the application for renewal.

[NOTE: Test methods are based on methods used in other states with established stage II programs. See the Oregon Department of Environmental Quality, Air Quality Division, for copies of the approved test methods.]

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Department of Environmental Quality.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 7-1991, f. & cert. ef. 5-7-91 (and corrected 6-7-91); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1994, f. & cert. ef. 11-22-94; DEQ 16-1996, f. & cert. ef. 8-14-96; DEQ 20-1998, f. & cert. ef. 10-12-98 (corrected ~4-23-99); renumbered from OAR 340-022-0402.

Motor Vehicle Refinishing

340-022-0700242-0600

Applicability

OAR 340-022-0700242-0600 through 340-022-0760242-0630 apply to any person who owns, leases, operates or controls a motor vehicle refinishing facility in the Portland AQMA.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020 & 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; DEQ 7-1999, f. 5-21-99, cert. ef. 7-12-99; renumbered from OAR 340-022-0700.

340-022-0710242-0610

Definitions

As used The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-022-0700242-0600 through 340-022-0760242-0630. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0600 through 340-242-0630.

(1) "Department" means the Oregon Department of Environmental Quality.

(2) "High Volume, Low Pressure Spray", or "HVLSP" means equipment used to apply coatings with a spray device which operates at a nozzle air pressure between 0.1 and 10 pounds per square inch gravity (psig).

(3) "Motor Vehicle" means a vehicle that is self-propelled or designed for self-propulsion as defined in ORS 801.360.

(4) "Motor Vehicle Refinishing" means the application of surface coating to on-road motor vehicles or non-road motor vehicles, or their existing parts and components, except Original Equipment Manufacturer (OEM) coatings applied at manufacturing plants.

(5) "Motor Vehicle Refinishing Coating" means any coating designed for, or represented by the manufacturer as being suitable for motor vehicle refinishing.

(6) "Motor Vehicle Refinishing Facility" means a location at which motor vehicle refinishing is performed.

(7) "Non-Road Motor Vehicle" means any motor vehicle other than an on-road motor vehicle. "Non-Road Motor Vehicle" includes, but is not limited to, fixed load vehicles, farm tractors, farm trailers, all-terrain vehicles, and golf carts as these vehicles are defined in ORS Chapter 801.

(8) "On-Road Motor Vehicle" means any motor vehicle which is required to be registered under ORS 803.300 or exempt from registration under ORS 803.305(5), 803.305(6), or 803.305(15) through 803.305(19). "On-Road Motor Vehicle" includes, but is not limited to: passenger cars, trucks, vans, motorcycles, mopeds, motor homes, truck tractors, buses, tow vehicles, trailers other than farm trailers, and camper shells.

(9) "Person" means the federal government, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever.

(10) "Portland Air Quality Maintenance Area" or "Portland AQMA" is defined in OAR 340-~~031-0500~~204-0010. (The Portland AQMA includes portions of Clackamas, Multnomah and Washington Counties.)

(11) "Public Highway" means every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

(12) "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

(13) "Volatile Organic Compound" or "VOC" means those compounds of carbon defined in OAR 340-022-0102.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS Ch. 468.020

Stats. Implemented: ORS Ch. 468A.025

Hist: DEQ 13-1995, f. & cert. ef. 5-25-95; DEQ 16-1996, f. & cert. ef. 8-14-96; DEQ 7-1999, f. 5-21-99, cert. ef. 7-12-99; renumbered from OAR 340-022-0710.

340-022-0740242-0620

Requirements for Motor Vehicle Refinishing in Portland AQMA

Except as provided in section (3) of this rule, persons performing motor vehicle refinishing of on-road motor vehicles within the Portland AQMA shall:

(1) Clean any spray equipment, including paint lines, in a device which:

- (a) Minimizes solvent evaporation during the cleaning, rinsing, and draining operations;
- (b) Recirculates solvent during the cleaning operation so the solvent is reused; and
- (c) Collects spent solvent to be available for proper disposal or recycling; and

(2) Apply motor vehicle refinishing coatings by one of the following methods:

- (a) High Volume Low Pressure spray equipment, operated and maintained in accordance with the manufacturer's recommendations;
- (b) Electrostatic application equipment, operated and maintained in accordance with the manufacturer's recommendations;
- (c) Dip coat application;
- (d) Flow coat application;
- (e) Brush coat application;
- (f) Roll coat application;
- (g) Hand-held aerosol cans; or
- (h) Any other coating application method which can be demonstrated to effectively control VOC emissions, and which has been approved in writing by the Department.

(3) This rule shall not apply to any person who performs motor vehicle refinishing without compensation, and who performs refinishing on two or fewer on-road motor vehicles, or portions thereof, in any calendar year.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468.020 & 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; DEQ 7-1999, f. 5-21-99, cert. ef. 7-12-99; renumbered from OAR 340-022-0740.

340-022-0760242-0630

Inspecting and Testing Requirements

The owner or operator of any facility subject to OAR 340-022-0700242-0600 through 340-022-0760242-0630 shall, at any reasonable time, make the facility available for inspection by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020 & 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; DEQ 7-1999, f. 5-21-99, cert. ef. 7-12-99; renumbered from OAR 340-022-0760.

Spray Paint

340-022-0900242-0700

Applicability

OAR 340-022-0900242-0700 through 340-022-0950242-0750 apply to any manufacturer, distributor, retailer or commercial applicator of spray paint for sale or use in the Portland AQMA.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-022-0900.

340-022-0910242-0710

Definitions

As used—The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-022-0900242-0700 through 340-022-0950242-0750. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in in OAR 340-242-0700 through 340-242-0750.

- (1) "Adhesive" means a product used to bond one surface to another.
- (2) "Anti-Static Spray" means a product used to prevent or inhibit the accumulation of static electricity.
- (3) "Art Fixative or Sealant" means a clear coating, including art varnish, workable art fixative, and ceramic coating, which is designed and labeled exclusively for application to paintings, pencil, chalk, or pastel drawings, ceramic art pieces, or other closely related art uses, to provide a final protective coating or to fix preliminary stages of art work while providing a workable surface for subsequent revisions.
- (4) "ASTM" means the American Society for Testing and Materials.
- (5) "Auto Body Primer" means an automotive primer or primer surfacer coating designed and labeled exclusively to be applied to a vehicle body substrate for the purpose of corrosion resistance and building a repair area which can be sanded to a smooth condition after drying.
- (6) "Automotive Bumper and Trim Product" means a product, including adhesion promoters and chip sealants, designed and labeled exclusively to repair and refinish automotive bumpers and plastic trim parts.
- (7) "Automotive Underbody Coating" means a flexible coating which contains asphalt or rubber and is labeled exclusively for use on the underbody of motor vehicles to resist rust, abrasion and vibration, and to deaden sound.
- (8) "Aviation Propeller Coating" means a coating designed and labeled exclusively to provide abrasion resistance and corrosion protection for aircraft propellers.
- (9) "Aviation or Marine Primer" means a coating designed and labeled exclusively to meet federal specification TT-P-1757.
- (10) "Belt Dressing" means a product applied on auto fan belts, water pump belting, power transmission belting, industrial equipment belting, or farm machinery belting to prevent slipping, and to extend belt life.
- (11) "Cleaner" means a product designed and labeled primarily to remove soil or other contaminants from surfaces.
- (12) "Clear Coating" means a coating which is colorless, containing resins but no pigments, except flattening agents, and is designed and labeled to form a transparent or translucent solid film.

(13) "Coating Solids" means the nonvolatile portion of a spray paint, consisting of the film forming ingredients, including pigments and resins.

(14) "Complying spray paint" means a spray paint which complies with the VOC content limits in OAR 340-022-0820242-0720.

(15) "Consumer" means any person who purchases or acquires any spray paint for personal, family, or household use. Persons acquiring a spray paint product for resale are not considered consumers of that product.

(16) "Commercial Applicator" means any person who purchases, acquires, applies, or contracts for the application of spray paint for commercial, industrial or institutional uses, or any person who applies spray paint in the course of an activity from which compensation is derived.

(17) "Corrosion Resistant Brass, Bronze, or Copper Coating" means a clear coating formulated and labeled exclusively to prevent tarnish and corrosion of uncoated brass, bronze or copper metal surfaces.

(18) "Department" means the Oregon Department of Environmental Quality.

(19) "Distributor" means any person who sells or supplies spray paint for the purposes of resale or distribution in commerce. "Distributor" includes activities of a self-distributing retailer related to the distribution of products to individual retail outlets. "Distributor" does not include manufacturers except for a manufacturer who sells or supplies spray paint products directly to a retail outlet. "Distributor" does not include consumers.

(20) "Dye" means a product containing no resins which is used to color a surface or object without building a film.

(21) "Electrical Coating" means a coating designed and labeled to be used exclusively to coat electrical components such as electric motor windings to provide electrical insulation or corrosion protection.

(22) "Enamel" means a coating which cures by chemical cross-linking of its base resin and is not resolvable in its original solvent.

(23) "Engine Paint" means a coating designed and labeled exclusively as such, which is used exclusively to coat engines and their components.

(24) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

(25) "Exact Match Finish, Automotive" means a topcoat which meets all of the criteria in subsections (a) through (c) of this section:

(a) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied automotive coating during the touch-up of automobile finishes;

(b) The product is labeled with the original equipment manufacturer's name for which it was formulated; and

(c) The product is labeled with one of the following:

(A) The original equipment manufacturer's (OEM) color code;

(B) The color name; or

(C) Other designation identifying the specific OEM color to the purchaser.

(d) Notwithstanding subsections (a) through (c) of this section, automotive clear coatings designed and labeled exclusively for use over automotive exact match finishes to replicate the original factory applied finish shall be considered to be automotive exact match finishes.

(26) "Exact Match Finish, Engine Paint" means a coating which meets all of the criteria in subsections (a) through (c) of this section:

(a) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied engine paint;

(b) The product is labeled with the original equipment manufacturer's name for which it was formulated; and

(c) The product is labeled with one of the following:

(A) The original equipment manufacturer's (OEM) color code;

(B) The color name; or

(C) Other designation identifying the specific OEM color to the purchaser.

(27) "Exact Match Finish, Industrial" means a coating which meets all of the criteria in sub-sections (a) through (c) of this section:

(a) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied industrial coating during the touch-up of manufactured products;

(b) The product is labeled with the original equipment manufacturer's name for which it was formulated; and

(c) The product is labeled with one of the following:

(A) The original equipment manufacturer's (OEM) color code;

(B) The color name; or

(C) Other designation identifying the specific OEM color to the purchaser.

(28) "Exempt compounds" means compounds of carbon specifically excluded from the definition of VOC.

(29) "Flat Paint Product" means a coating which, when fully dry, registers specular gloss less than or equal to 15 on an 85° gloss meter, or less than or equal to 5 on a 60° gloss meter, or which is labeled as a flat coating.

(30) "Flatting Agent" means a compound added to a coating to reduce the gloss of the coating without adding color to the coating.

(31) "Floral Spray" means a coating designed and labeled exclusively for use on fresh flowers, dried flowers, or other items in a floral arrangement for the purpose of coloring, preserving or protecting their appearance.

(32) "Fluorescent Coating" means a coating labeled as such which converts absorbed incident light energy into emitted light of a different hue.

(33) "Glass Coating" means a coating designed and labeled exclusively to be applied to glass or other transparent material, to create a soft, translucent light effect, or to create a tinted or darkened color while retaining transparency.

(34) "Ground/Traffic Marking Coating" means a coating designed and labeled exclusively to be applied to dirt, gravel, grass, concrete, asphalt, warehouse floors, or parking lots. Such coatings must be in a container equipped with a valve and sprayhead designed to direct the spray downward when the can is held in an inverted position.

(35) "High Temperature Coating" means a coating, excluding engine paint, which is designed and labeled exclusively for use on substrates which will, in normal use, be subjected to temperatures in excess of 400° Fahrenheit.

(36) "Hobby/Model/Craft Coating" means a coating which is designed and labeled exclusively for hobby applications and is sold in aerosol containers of 6 ounces in weight or less.

(37) "Ink" means a fluid or viscous substance used in the printing industry to produce letters, symbols or illustrations, but not to coat an entire surface.

(38) "Lacquer" means a thermoplastic film-forming finish dissolved in organic solvent, which dries primarily by solvent evaporation, and is resolvable in its original solvent.

(39) "Layout Fluid" or "Toolmaker's Ink" means a coating designed and labeled exclusively to be sprayed on metal, glass or plastic, to provide a glare-free surface on which to scribe designs, patterns or engineering guide lines prior to shaping the piece.

(40) "Leather Preservative" means a leather treatment material applied exclusively to clean, condition or preserve leather.

(41) "Lubricant" means a substance such as oil, petroleum distillates, grease, graphite, silicone, lithium, etc., that is applied to surfaces to reduce friction, heat, or wear when applied between surfaces.

(42) "Manufacturer" means the company, firm or establishment which is listed on the product container or package. If the product container or package lists two companies, firms or establishments, the manufacturer is the party which the product was "manufactured for" or "distributed by", as noted on the product container or package.

(43) "Marine Spar Varnish" means a coating designed and labeled to be exclusively used as a protective sealant for marine wood products.

(44) "Maskant" means a coating applied directly to a component to protect surfaces during chemical milling, anodizing, aging, bonding, plating, etching, or other chemical operations.

(45) "Metallic Coating" means a topcoat which contains at least 0.5 percent by weight elemental metallic pigment in the formulation, including propellant, and is labeled as "metallic", or with the name of a specific metallic finish such as "gold", "silver", or "bronze".

(46) "Mold Release" means a coating applied to molds to prevent products from sticking to mold surfaces.

(47) "Multi-Component Kit" means a spray paint system which requires the application of more than one component, (e.g. foundation coat and top coat), where both components are sold together in one package.

(48) "Noncomplying spray paint" means a spray paint which does not comply with the VOC content limits in OAR 340-022-0820242-0720.

(49) "Non-Flat Paint Product" means a coating which, when fully dry, registers a specular gloss greater than 15 on an 85° gloss meter or greater than 5 on a 60° gloss meter.

(50) "Photograph Coating" means a coating designed and labeled exclusively to be applied to finished photographs to allow corrective retouching, protection of the image, changes in gloss level, or to cover fingerprints.

(51) "Pleasure Craft" means privately owned boats used for noncommercial purposes.

(52) "Pleasure Craft Finish Primer/Surfacer/Undercoat" means any coating designed and labeled exclusively to be applied before the application of a pleasure craft topcoat for the purpose of corrosion resistance and adhesion of a topcoat, and which promotes a uniform surface by filling in surface imperfections.

(53) "Pleasure Craft Topcoat" means a coating designed and labeled exclusively to be applied to a pleasure craft as a final coat above the water line and above and below the water line when stored out of water. This category does not include clear coatings.

(54) "Portland Air Quality Maintenance Area" or "Portland AQMA" is defined in OAR 340-031-0500204-0010. (The Portland AQMA includes portions of Clackamas, Multnomah and Washington Counties.)

(55) "Primer" means a coating labeled as such, which is designed to be applied to a surface to promote a bond between that surface and subsequent coats.

(56) "Propellant" means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or other material from a container.

(57) "Retailer" means any person who sells, supplies, or offers spray paint for sale directly to consumers or commercial applicators.

(58) "Retail Outlet" means any establishment where spray paints are sold, supplied, or offered for sale directly to consumers or commercial applicators.

(59) "Rust Converter" means a product which is designed and labeled exclusively to convert rust to an inert material, and which has a minimum acid content of 0.5 percent by weight, and which has a maximum coating solids content of 0.5 percent by weight.

(60) "Shellac Sealer" means a clear or pigmented coating formulated solely with the resinous secretion of the lac beetle (*Laccifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

(61) "Slip-Resistant Coating" means a coating designed and labeled exclusively as such which is formulated with synthetic grit, and used a safety coating.

(62) "Spatter Coating/Multicolor Coating" means a coating labeled exclusively as such in which spots, globules, or spatters of contrasting colors appear on or within the surface of a contrasting or similar background.

(63) "Spray Paint" means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application, or for use in specialized equipment for ground traffic/marketing applications.

(64) "Spray Paint Category" means the applicable category which best describes a spray paint listed in this rule.

(65) "Stain" means a coating labeled as such which is designed and labeled to change the color of a surface without concealing the surface from view.

(66) "Topcoat" means a coating applied over any coating, for the purpose of appearance, identification, or protection.

(67) "Vinyl/Fabric/Polycarbonate Coating" means a coating designed and labeled exclusively to coat vinyl, fabric, or polycarbonate substrates.

(68) "Volatile Organic Compound" or "VOC" means those compounds of carbon defined in OAR 340-022-0102 division 200. For purposes of determining compliance with VOC content limits, VOC shall be measured by an applicable method identified in OAR 340-022-0950 242-0750.

(69) "VOC Content" means the ratio of the weight of VOC to the total weight of the product contents expressed as follows:

$$\text{VOC Content} = W_{\text{VOC}}/W_{\text{Total}} \times 100$$

Where:

W_{VOC} = the weight of volatile organic compounds; and

W_{Total} = the total weight of the product's contents.

(70) "Webbing/Veiling Coating" means a spray product designed and labeled exclusively to produce a stranded or spider-webbed decorative effect.

(71) "Weld-Through Primer" means a coating designed and labeled exclusively to provide a bridging or conducting effect to provide corrosion protection following welding.

(72) "Wood Stain" means a coating which is formulated to change the color of a wood surface without concealing the surface from view.

(73) "Wood Touch-Up/Repair/Restoration Coatings" mean coatings designed and labeled exclusively to provide an exact color or sheen match on finished wood products.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist: DEQ 13-1995, f. & cert. ef. 5-25-95; DEQ 16-1996, f. & cert. ef. 8-14-96; renumbered from OAR 340-022-0910.

340-022-0920242-0720

Spray Paint Standards and Exemptions

(1) Where required by OAR 340-022-0930242-0730, spray paint shall not exceed the VOC content limits in **Table F**, as modified by the special conditions and exemptions in sections (2) and (3) of this rule.

Table F

SPRAY PAINT VOC CONTENT LIMITS

Spray Paint Category — VOC Content %-by-Weight

General Coatings:

- Clear Coating — 67
- Flat Paint Products — 60
- Fluorescent Coatings — 75
- Lacquer Coating Products — 80
- Metallic Coating — 80
- Non-Flat Paint Products — 65
- Primer — 60

Specialty Coatings:

- Art Fixative or Sealant — 95
- Auto Body Primer — 80
- Automotive Bumper & Trim Products — 95
- Aviation or Marine Primer — 80
- Aviation Propeller Coating — 84
- Corrosion Resistant Brass, Bronze, or
Copper Coatings — 92

Exact Match Finish:

- Engine Enamel — 80
- Automotive — 88
- Industrial — 88

Floral Spray — 95

Glass Coating — 95

Ground Traffic Marking Coating — 66

High Temperature Coating — 80*

Hobby/Model/Craft Coating:

- Enamel — 80
- Lacquer — 88
- Clear or Metallic — 95

Marine Spar Varnish — 85

Photograph Coating — 95

Pleasure Craft Finish Primer Surfacer or Undercoater — 75

Pleasure Craft Topcoat — 80

Shellac Sealer:

- Clear — 88
- Pigmented — 75

Slip-Resistant Coating — 80
Spatter/Multicolor Coating — 80
Vinyl/Fabric/Polycarbonate Coating — 95
Webbing/Veil Coating — 90
Weld-Through Primer — 75
Wood Stains — 95
Wood Touch-Up, Repair, or Restoration Coatings — 95

*The VOC limit for High Temperature Coating shall be 88.0% until July 1, 1999, after which the 80.0% limit shall apply.

(2) Special Conditions. The following conditions shall apply to spray paint subject to VOC content limits under section (1) of this rule:

(a) The total weight of VOC contained in a multi-component kit shall not exceed the total weight of VOC that would be allowed in the multi-component kit had each component product met the applicable VOC standards.

(b)(A) Except as provided in paragraph (B) of this subsection, if anywhere on the principal display panel of any spray paint or in any promotion of the product, any representation is made that the product may be used as, or is suitable for use as a spray paint for which a lower VOC standard is specified in section (1) of this rule, then the lower VOC standard shall apply.

(B) If a spray paint is subject to both general coating limit and a specialty coating limit under section (1) of this rule, and the product meets all the criteria of the applicable specialty coating category as specified in OAR 340-022-0910242-0710, then the specialty coating limit shall apply instead of the general coating limit.

(3) Exemption. Section (1) of this rule shall not apply to aerosol lubricants, mold releases, automotive underbody coating, electrical coatings, cleaners, belt dressings, anti-static sprays, layout fluids and removers, adhesives, maskants, rust converters, dyes, inks, leather preservatives, or spray paint assembled by adding bulk paint to aerosol containers of propellant and solvent used for minor finish repairs during the original manufacture of products.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-022-0920.

340-022-0930242-0730

Requirements for Manufacture, Sale and Use of Spray Paint

(1) Manufacturers. Except as provided in section (6) of this rule, any person who manufactures spray paint after July 1, 1996 which is sold, offered for sale, supplied or distributed, directly or indirectly, to a retail outlet in the Portland AQMA shall:

(a) Manufacture complying spray paint for spray paint marketed in the Portland AQMA;

(b) Clearly display the following information on each product container such that it is readily observable upon hand-held inspection without removing or disassembling any portion of the product container or packaging:

(A) The maximum VOC content of the spray paint, expressed as a percentage by weight;

(B) The spray paint category as defined in OAR 340-022-0910242-0710, or an abbreviation of the spray paint category; and

(C) The date on which the product was manufactured, or a code indicating such date; and

(c) Notify direct purchasers of products manufactured for sale within the Portland AQMA upon determining that any noncomplying spray paint has been supplied in violation of this rule.

(2) Distributors. Except as provided in section (6) of this rule, any distributor of spray paint manufactured after July 1, 1996 which is sold, offered for sale, supplied or distributed to a retail outlet within the Portland AQMA shall:

(a) Distribute to the Portland AQMA only spray paints that are labeled as required under subsection (1)(b) of this rule;

(b) Distribute to the Portland AQMA only spray paints labeled with VOC contents that meet the VOC limits specified in OAR 340-022-0920242-0720; and

(c) Notify direct purchasers of products distributed for sale within the Portland AQMA upon determining that any noncomplying spray paint has been supplied in violation of this rule.

(3) Retailers.

(a) Except as provided in section (6) of this rule, no retailer shall knowingly sell within the Portland AQMA any noncomplying spray paint manufactured after July 1, 1996.

(b) Upon notification by the Department, a manufacturer, or a distributor that any noncomplying spray paint has been supplied, a retailer shall remove noncomplying spray paint from consumer-accessible areas of retail outlets within the Portland AQMA.

(4) Commercial Applicators. Except as provided in section (6) of this rule, no commercial applicator shall, within the Portland AQMA, knowingly use or contract for the use of any noncomplying spray paint manufactured after July 1, 1996.

(5) Label Alteration. No person shall remove, alter, conceal or deface the information required in subsection (1)(b) of this rule prior to final sale of the product.

(6) Exception. For spray paint which has been granted a compliance extension under OAR ~~340-022-1110242-0770~~, this rule applies to spray paint manufactured after the date specified in the compliance extension.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; DEQ 22-1996, f. & cert. ef. 10-22-96; renumbered from OAR 340-022-0930.

340-022-0940242-0740

Recordkeeping and Reporting Requirements

(1) Recordkeeping. Manufacturers subject to OAR ~~340-022-0830242-0730~~ shall maintain the following records for at least 2 years after a product is sold, offered for sale, supplied or distributed by the manufacturer, directly or indirectly, to a retail outlet in the Portland AQMA.

(a) VOC content records of spray paint based methods provided in OAR ~~340-022-0950242-0750~~;

(b) An explanation of any code indicating the date of manufacture of any spray paint; and

(c) Information used to substantiate an application for a compliance extension OAR ~~340-022-1110242-0770~~;

(2) Reporting. Following request and within a reasonable period of time, records, specified in section (1) of this rule shall be made available to the Department.

(3) Exemption from disclosure. If a person claims that any writing, as that term is defined in ORS 192.410(5), is confidential or otherwise exempt from disclosure, in whole or in part, the person shall comply with the procedures specified in OAR ~~340-022-1120242-0780~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-022-0940.

340-022-0950242-0750

Inspection and Testing Requirements

(1) The owner or operator of a facility subject to OAR ~~340-022-0900242-0700~~ through ~~340-022-0950242-0750~~ shall, at any reasonable time, make the facility available for inspection by the Department.

(2) Upon request of the Department, any person subject to OAR ~~340-022-0900242-0700~~ through ~~340-022-0950242-0750~~ shall furnish samples of spray paint products selected by the Department from available stock for testing by the Department to determine compliance with OAR ~~340-022-0920242-0720~~.

(3) Except as provided in Section (5) of this rule, testing to determine compliance with OAR ~~340-022-0920242-0720~~ shall be performed using:

(a) VOC content. The VOC content shall be determined by:

(A) The procedures set forth in **Bay Area Air Quality Management District Manual of Procedures, Volume III, Laboratory Procedures, Method 35, "Determination of Volatile Organic Compounds, (VOC) in Solvent Based Aerosol Paints," as amended January 19, 1994**, and, for water-containing spray paints, by **ASTM D 5325-92, "Standard Test Method for Determination of Weight Percent Volatile Content of Water-Borne Aerosol Paints", November 15, 1992**; or

(B) Calculation of VOC content from records amounts of constituents used to manufacture the product and the chemical compositions of the individual product constituents.

(b) Exempt Compounds. If a method specified in subsection (a) of this section to measure VOC also measures exempt compounds, the exempt compounds may be excluded from the VOC content if the amount of such compounds is accurately quantified. The Department may require a manufacturer to provide methods and results demonstrating, to the satisfaction of the Department, the amount of exempt compounds in the spray paint of the spray paint's emissions.

(4) Except as provided in Section (5) of this rule, testing to establish the spray paint category as defined in OAR 340-022-0010242-0710 shall be performed using:

(a) Metal Content. The metal content of metallic aerosol coating products shall be determined by South Coast Air Quality Management District Test Method 311 (SCAQMD "Laboratory Methods of Analysis for Enforcement Samples" manual), June 1, 1991, after removal of the propellant following the procedure in ASTM Method 5325-92, "Standard Test Method for Determination of Weight Percent Volatile Content of Water-Borne Aerosol Paints", November 15, 1992.

(b) Specular Gloss. Specular gloss of flat and non-flat coatings shall be determined by ASTM Method D 523-89, March 31, 1989.

(c) Acid Content. The acid content of rust converters shall be determined by ASTM Method D-1613-85, "Standard Test Method for Acidity in Volatile Solvents and Chemical Inter-mediate used in Paint, Varnish, Lacquer, and Related Products", May 31, 1985, after removal of the propellant following the procedure in ASTM Method 5325-92, "Standard Test Method for Determination of Weight Percent Volatile Content of Water-Borne Aerosol Paints", November 15, 1992.

(5) Alternative test methods which are shown to accurately determine the VOC content, exempt compounds, metal content, specular gloss, or acid content in a spray paint may also be used if approved in writing by EPA and the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-022-0950.

Area Source Common Provisions

340-022-1100242-0760

Applicability

OAR 340-022-1100242-0760 through 340-022-1130242-0790 apply to OAR 340-022-0700242-0600 through OAR 340-022-1050242-0750.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-022-1100.

340-022-1110242-0770

Compliance Extensions

Any manufacturer, as defined in OAR 340-022-0810242-0710, who cannot comply with the requirements specified in OAR 340-022-0700242-0700 to 340-022-1050242-0750 by the applicable compliance date because of conditions specified in section (4) of this rule may apply in writing to the Department for a compliance extension of up to 3 years in renewable 1 year increments.

(1) A manufacturer shall apply in writing to the Department for any compliance extension under this section. Information claimed by the applicant as confidential or otherwise exempt from disclosure shall be submitted in accordance with OAR 340-022-1120242-0780. The application shall include;

(a) An explanation of the specific grounds addressing each subsection under section (4) of this rule on which the compliance extension is sought;

(b) The requested terms and conditions;

(c) The specific method(s) by which compliance with the requested terms and conditions will be achieved;

(d) Any interim measures which may be taken during the period of the compliance extension to limit the amount of emissions in excess of the rule limits; and

(e) If applicable, any compliance extension, alternate control requirement or variance order granted by another local, state or federal air pollution control agency.

(2) Within 30 days of receipt of the compliance extension application, the Department shall determine whether an application is complete.

(3) Within 90 days after an application has been deemed complete, the Department shall determine whether, under what conditions, and to what extent, a compliance extension shall be approved. The applicant and the Department may mutually agree to extend the period for making a determination, and additional supporting documentation may be submitted by the applicant before the determination is reached.

(4) In considering whether to approve a compliance extension, the Department shall consider the following:

(a) Conditions beyond the control of the applicant;

(b) Special circumstances which render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause;

(c) Strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or

(d) No other alternative facility or method of handling is yet available.

(5) Any compliance extension order shall specify terms and conditions, including a date by which final compliance shall be achieved. The final compliance date shall not exceed 3 years after the applicable compliance date. A compliance extension shall be granted in 1 year increments which may be renewed until the final compliance date upon a showing by the manufacturer that any increments of progress and other terms and conditions in the order have been met.

(6) The Department shall notify the applicant in writing of the determination under section (3) of this rule and the terms and conditions established under section (5) of this rule.

(7) Notwithstanding Section (4) of this rule, if, prior to the applicable compliance date, a manufacturer, as defined in OAR ~~340-022-0810~~242-0710, submits to the Department a variance order granted by the California Air Resources Board (CARB) which is valid as of February 20, 1995, the manufacturer shall be granted a 1 year extension from the applicable compliance date. Such compliance extensions may be revoked by the Department if the Department believes that the manufacturer is not in compliance with the terms and conditions of the CARB variance order.

(8) For any product for which a compliance extension has been approved pursuant to this rule, the manufacturer shall notify the Department in writing within 30 days if the manufacturer learns that information submitted to the Department under this rule has changed in a manner which could modify the basis of the Department's approval.

(9) If the Department believe that a product for which a compliance extension has been granted no longer meets the criteria for a compliance extension specified in this rule, the Department may modify or revoke the extension as necessary to ensure that the product will meet these criteria. The Department shall notify the applicant in writing if a compliance extension is modified or revoked under this section.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-022-1110.

~~340-022-1120~~242-0780

Exemption from Disclosure to the Public

(1) If a person claims that any writing, as that term is defined in ORS 192.410(5), is confidential or otherwise exempt from disclosure, in whole or in part, the person shall comply with the following procedures:

(a) The writing shall be clearly marked with a request for exemption from disclosure. For a multi-page writing, each page shall be so marked.

(b) The person shall state the specific statutory provision under which it claims exemption from disclosure and explain why the writing meets the requirements of that provision.

(c) For writings that contain both exempt and non-exempt material, the proposed exempt material shall be clearly distinguishable from the non-exempt material. If possible, the exempt material shall be arranged so that it is placed on separate pages from the non-exempt material.

(2) For a writing to be considered exempt from disclosure as a "trade secret," it shall meet all of the following criteria:

(a) The information shall not be patented;

(b) It shall be known only to a limited number of individuals within a commercial concern who have made efforts to maintain the secrecy of the information;

(c) It shall be information which derives actual or potential economic value from not being disclosed to other persons; and

(d) It shall give its users the chance to obtain a business advantage over competitors not having the information.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-022-1120.

340-022-1130242-0790

Future Review

Within a reasonable period of time following adoption by the United States Environmental Protection Agency of regulations to reduce VOC emissions from one or more products subject to OAR ~~340-022-0700242-0700~~ through OAR ~~340-022-1050242-0750~~, the Department shall provide the following information to the Environmental Quality Commission:

(1) A comparison of the federal regulation with OAR ~~340-022-0700242-0700~~ through ~~340-022-1050242-0750~~;

(2) An estimate of the change in emissions which would occur from repeal of provisions in OAR ~~340-022-0700242-0700~~ through ~~340-022-1050242-0750~~ applicable to such product or products;

(3) An assessment of the effect of eliminating or modifying the provisions of OAR ~~340-022-0700242-0700~~ through OAR ~~340-022-1050242-0750~~ on the State Implementation Plan adopted under OAR ~~340-020-0047200-0040~~, including any need for substitute measures; and

(4) A recommendation regarding amendment to eliminate such provisions and, if applicable, a schedule for amendment.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 13-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-022-1130.

DIVISION 244

OREGON FEDERAL HAZARDOUS AIR POLLUTANTS PROGRAM

General Provisions for Stationary Sources

340-032-0100244-0010

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; renumbered from OAR 340-031-0510; renumbered from OAR 340-032-0100.

40-032-0110244-0020

Delegation of Authority

(1) The Lane Regional Air Pollution Authority (LRAPA) is authorized to implement and enforce, within its boundaries, this Division.

(2) The Commission may authorize LRAPA to implement and enforce its own provisions upon a finding that such provisions are at least as stringent as a corresponding provision in this Division. LRAPA may implement and enforce provisions authorized by the Commission in place of any or all of this Division upon receipt of delegation from EPA or approval of such provisions under Section 112(1) of the Federal Clean Air Act. Authorization provided under this section may be withdrawn for cause by the Commission.

Stat. Auth.: ORS 468 & ORS 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; renumbered from OAR 340-031-0510; renumbered from OAR 340-032-0110.

340-032-0120244-0030

Definitions

As used in this Division: 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 OAR 340-200-0020 or 340-218-0030, the definition in this rule applies to this division.

(1) "Accidental Release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(2) "Act" and "FCAA" mean the Federal Clean Air Act, Public Law 88-206 as last amended by Public Law 101-549.

(3) "Actual Emissions" means the mass emissions of a pollutant from an emissions source during a specified time period.

(a) Actual emissions shall equal the average rate at which the source actually emitted the pollutant and which is representative of normal source operation. Actual emissions shall be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor in combination with the source's actual operating hours, production rates and types of materials processed, stored, or combusted during the specified time period;

(b) For any source which had not yet begun normal operation in the specified time period, actual emissions shall equal the potential to emit of the source;

(c) For purposes of OAR ~~340-032-0300244-0100~~ through OAR ~~340-032-0380244-0180~~ actual emissions shall equal the actual rate of emissions of a pollutant, but does not include excess emissions from a malfunction, or startups and shutdowns associated with a malfunction.

(4) "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.

(5) "Artificially or Substantially Greater Emissions" means abnormally high emissions such as could be caused by equipment malfunctions, accidents, unusually high production or operating rates compared to historical rates, or other unusual circumstances.

(6) "Base Year Emissions" for purposes of Early Reductions only (OAR ~~340-032-0300244-0100~~), means actual emissions in the calendar year 1987 or later.

(7) "Commission" means the Oregon Environmental Quality Commission.

(8) "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 a through f of this paragraph:

(a) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of this subpart will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(b)(A) The permitting authority 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

(B) The permitting authority 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) The permitting authority 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) The permitting authority 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, the permitting authority 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 the permitting authority are predicated will be construed by the permitting authority 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.

(9) "Department" means the Department of Environmental Quality.

(10) "Director" means the Director of the Department or Regional authority, and authorized deputies or officers.

(11) "Early Reductions Unit" means a single emission point or group of emissions points defined as a unit for purposes of an alternative emissions limit issued under OAR ~~340-032-0300244-0100~~ through ~~340-032-0380244-0180~~.

(12) "Emission" means a release into the atmosphere of any regulated pollutant or air contaminant.

(13) "Emissions Limitation" and "Emissions Standard" mean a requirement adopted by the Department or regional authority, 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.

(14) "Emissions Unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant.

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

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

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

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

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

(d) Parts and activities shall not be grouped for purposes of determining emissions increases from an emissions unit under OAR 340-028-1930244-0050, 340-028-1940244-0070, or 340-028-2270218-0190, or for purposes of determining the applicability of a New Source Performance Standard (NSPS).

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

(16) "EPA Conditional Method" means any method of sampling and analyzing for air pollutants which has been validated by the EPA but which has not been published as an EPA reference method.

(17) "EPA Reference Method" means any method of sampling and analyzing for an air pollutant as described in 40 CFR Part 60, 61, or 63 (July 1, 1998).

(18) "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.

(19) "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.

(20) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(21) "Fugitive Emissions" means emissions of any air contaminant that escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct or equivalent opening.

(22) "Generally Available Control Technology (GACT)" means an alternative emission standard promulgated by EPA for non-major sources of hazardous air pollutants which provides for the use of control technology or management practices which are generally available.

(23) "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.

(24) "High-Risk Pollutant" means any air pollutant listed in Table 2 of OAR 340-032-0340244-0140 for which exposure to small quantities may cause a high risk of adverse public health effects.

(25) "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.

(26) "Manufacture" as used in OAR 340-032-0240 means to produce, prepare, compound, or import a substance. This includes the coincidental production of a substance as a byproduct or impurity.

(27) "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.

(28) "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.

(289) "Not Feasible to Prescribe or Enforce a Numerical Emission Limit" means a situation in which the Department determines that a pollutant or stream of pollutants listed in OAR 340-032-0130~~244-0040~~ cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any state or federal law or regulation; or the application of measurement technology to a particular source is not practicable due to technological or economic limitations.

(2930) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.

(304) "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.

~~(32) "Process" as used in OAR 340-032-0240 means the preparation of a substance, including the intentional incorporation of a substance into a product after its manufacture, for distribution in commerce.~~

(313) "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.

(324) "Regional Authority" means Lane Regional Air Pollution Authority.

(335) "Regulated Air Pollutant" as used in this Division means:

(a) Any pollutant listed under OAR 340-032-0130~~200-0400~~ or OAR 340-032-5400~~244-0230~~; or

(b) Any pollutant that is subject to a standard promulgated pursuant to Section 129 of the Act.

(346) "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions shall be specific, well defined, and quantifiable, and impact the same general area as the source associated with the secondary emissions.

Secondary emissions may include but are not limited to:

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

(b) Emissions from offsite support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.

(357) "Section 111" means that section of the FCAA that includes standards of performance for new stationary sources.

(368) "Section 112(b)" means that subsection of the FCAA that includes the list of hazardous air pollutants to be regulated.

(379) "Section 112(d)" means that subsection of the FCAA that directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by EPA when establishing the emission standards.

(3840) "Section 112(e)" means that subsection of the FCAA that directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.

(4139) "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.

(402) "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.

(413) "Section 129" means that section of the FCAA that requires EPA to promulgate regulations for solid waste combustion.

(424) "Solid Waste Incineration Unit" as used in this Division shall have the same meaning as given in Section 129(g) of the FCAA.

(435) "Stationary Source":

(a) As used in OAR ~~340-032-0100 through 340-032-5000 and 340-032-5500 through 340-032-5650~~ division 244 means any building, structure, facility, or installation which emits or may emit any regulated air pollutant;

(b) As used in OAR ~~340-032-5400~~244-0230 means any buildings, structures, equipment, installations, or substance emitting stationary activities:

(A) That belong to the same industrial group;

(B) That are located on one or more contiguous properties;

(C) That are under the control of the same person (or persons under common control); and

(D) From which an accidental release may occur.

~~(46) "Use" as used in OAR 340-032-0240 means the consumption of a chemical that does not fall under the definitions of "manufacture" or "process". This may include the use of a chemical as a manufacturing aid, cleaning or degreasing aid, or waste treatment aid.~~

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

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; renumbered from OAR 340-032-0120.

340-032-0130~~244-0040~~

List of Hazardous Air Pollutants

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

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.040

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; renumbered from OAR 340-032-0130.

40-032-0140~~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; renumbered from OAR 340-032-0140.

Compliance Extensions for Early Reductions

340-032-0300244-0100

Applicability

The requirements of OAR ~~340-032-0300244-0100~~ through ~~340-032-0380244-0180~~ 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 OAR ~~340-032-0310244-0110~~.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468A.310

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340-032-0300.

340-032-0310244-0110

Permit Application Procedures for Early Reductions

(1) To apply for an alternative emission limitation under OAR-~~340-032-0300244-0100~~, an owner or operator of the source shall file a permit application with the Department.

(2) Except as provided in (3) of this rule, the permit application shall contain the information required in OAR ~~340-032-0340244-0140~~ and shall comply with additional permit application procedures as prescribed in OAR ~~340-028-2100~~ through ~~340-028-2320~~ division 218.

(3) Permit applications for Early Reductions shall be submitted no later than 120 days after proposal of an otherwise applicable standard issued under Section 112(d) of the Act provided that the reduction was achieved prior to the date of proposal of the standard.

(4) The post reduction emissions information required under OAR ~~340-032-0340244-0140~~(5)(b), OAR ~~340-032-0340244-0140~~(5)(c), and OAR ~~340-032-0340244-0140~~(5)(e) shall not be filed as part of the source's initial permit application but shall be filed later as a supplement to the application. This supplementary information shall be filed no earlier than one year after the date early reductions had to be achieved according to OAR ~~340-032-0320244-0120~~(1)(b) and no later than 13 months after such date.

(5) If a source test is the supporting basis for establishing post-reduction emissions for one or more emission points in the Early Reductions Unit, the test results shall be submitted by the applicable deadline for submittal of a permit application as specified in section (3) of this rule.

(6) The Department shall review and decide on permit applications for early reductions according to the provisions of OAR ~~340-028-2100~~ through ~~340-028-2320~~ division 218.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468A.310

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 24-1994, f. & cert. ef. 10-28-94; renumbered from OAR 340-032-0310.

340-032-0320244-0120

General Provisions for Compliance Extensions

(1) The Department shall by permit, issued in accordance with OAR ~~340-028-2100~~ through ~~340-028-2320~~ division 218, allow an existing source to meet an alternative emission limitation for an Early Reductions Unit in lieu of an emission limitation promulgated under Section 112(d) of the FCAA for a period of six years from the compliance date of the otherwise applicable standard provided the owner or operator demonstrates:

(a) According to the requirements of OAR ~~340-032-0340244-0140~~ that the Early Reductions Unit has achieved a reduction of at least 90 percent (95 percent or more in the case of HAP that are particulate) in emissions of:

(A) Total HAP from the Early Reductions Unit; or

(B) Total HAP from the Early Reductions Unit as adjusted for high-risk pollutant weighing factors (**Table 2**), if applicable.

(b) That such reduction was achieved before the otherwise applicable standard issued under Section 112(d) of the FCAA was first proposed.

(2) A source granted an alternative emission limitation shall comply with an applicable standard issued under Section 112(d) of the FCAA immediately upon expiration of the six year compliance extension period specified in section (1) of this rule.

(3) For each facility issued a permit under section (1) of this rule, there shall be established as part of the permit an enforceable alternative emission limitation for HAP for each Early Reductions Unit reflecting the reduction that qualified the Early Reductions Unit for the alternative emission limitation.

(4) Any source that has received an alternative emissions limit from EPA, either pursuant to **40 CFR 63.75 Enforceable Commitments dated December 29, 1992**, or as a Title V specialty permit, shall have the alternative emission limit(s) incorporated as an applicable requirement in its operating permit pursuant to OAR 340-028-2230218-0150 upon permit issuance or renewal.

(5) If a source fails to submit a timely and complete application according to OAR 340-028-2120218-0040, or does not adequately demonstrate the required reductions in emissions pursuant to OAR 340-032-0340244-0140, the Department shall not approve the source's application for a compliance extension and alternative emission limit, and the source is required to comply with any applicable emission standard established pursuant to 112(d) of the FCAA by the compliance date prescribed in the applicable standard.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468A.310

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 24-1994, f. & cert. ef. 10-28-94; renumbered from OAR 340-032-0320.

340-032-0330244-0130

Determination of Early Reductions Unit

An alternative emission limitation may be granted under this section to an existing Early Reductions Unit as defined below provided that a 90 percent (or 95 percent in the case of particulate emissions) reduction in base year HAP emissions is achieved. For the purposes of compliance extensions for early reductions only, an "Early Reductions Unit" includes any of the following:

- (1) A building structure, facility, or installation identified as a source under any proposed or promulgated standard issued under 112(d) of the FCAA;
- (2) All portions of an entire contiguous plant site under common ownership or control that emit hazardous air pollutants;
- (3) Any portion of an entire contiguous plant site under common ownership or control that emits HAP and can be identified as a facility, building, structure, or installation for the purposes of establishing standards under Section 112(d) of the FCAA; or
- (4) Any individual emission point or combination of emission points within a contiguous plant site under common control, provided that the base year emissions of HAP from such point or aggregation of points is at least ten tons per year where the total base year emissions of HAP from the entire contiguous plant site is greater than 25 tons, or at least five tons per year where the total base year emissions of HAP from the entire contiguous plant site is equal to or less than 25 tons.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468A.310

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 24-1994, f. & cert. ef. 10-28-94; renumbered from OAR 340-032-0330.

340-032-0340244-0140

Demonstration of Early Reduction

(1) For purposes of determining emissions for Early Reductions, "Actual emissions" means the actual rate of emissions of a pollutant, but does not include excess emissions from a malfunction, or startups and shutdowns associated with a malfunction. Actual emissions shall be calculated using the source's actual operating rates, and types of materials processed, stored, or combusted during the selected time period.

(2) An owner or operator applying for an alternative emission limitation shall demonstrate achieving early reductions as required by OAR 340-032-0320244-0120(1) by following the procedures in this rule.

(3) An owner or operator shall establish the Early Reductions Unit for the purposes of a compliance extension and alternative emission limit by documenting the following information:

(a) A description of the Early Reductions Unit including a site plan of the entire contiguous plant site under common control that contains the Early Reductions Unit, markings on the site plan locating the parts of the site that constitute the Early Reductions Unit, and the activity at the Early Reductions Unit that causes HAP emissions;

(b) A complete list of all emission points of HAP in the Early Reductions Unit, including identification numbers and short descriptive titles; and

(c) A statement showing that the Early Reductions Unit conforms to one of the allowable definition options from OAR 340-032-0330244-0130. For an Early Reductions Unit conforming to the option in OAR 340-032-0330244-0130(4), the total

base year emissions from the Early Reductions Unit, as determined pursuant to this section, shall be demonstrated to be at least:

(A) Five tons per year, for cases in which total HAP emissions from the entire contiguous plant site under common control are 25 tons per year or less as required under section (12) of this rule; or

(B) Ten tons per year in all other cases.

(4) An owner or operator shall establish base year emissions for the Early Reductions Unit by providing the following information:

(a) The base year chosen, where the base year shall be 1987 or later;

(b) The best available data accounting for actual emissions, during the base year, of all HAP from each emission point listed in the Early Reductions Unit in subsection (3)(b) of this rule;

(c) The supporting basis for each emission number provided in subsection (4)(b) of this rule including:

(A) For test results submitted as the supporting basis, a description of the test protocol followed, any problems encountered during the testing, a discussion of the validity of the method for measuring the subject emissions, and evidence that the testing was conducted in accordance with the Department's **Source Sampling Manual or Continuous Monitoring Manual**; and

(B) For calculations based on emission factors, material balance, or engineering principles and submitted as the supporting basis, a step-by-step description of the calculations, including assumptions used and their bases, and a brief rationale for the validity of the calculation method used; and

(d) Evidence that the emissions provided under subsection (4)(b) of this rule are not artificially or substantially greater than emissions in other years prior to implementation of emission reduction measures.

(5) An owner or operator shall establish post-reduction emissions by providing the following information:

(a) For the emission points listed in the Early Reductions Unit in subsection (3)(b) of this rule a description of all control measures employed to achieve the emission reduction required by OAR 340-~~032-0320244-0120~~(1)(a);

(b) The best available data accounting for actual emissions, during the year following the applicable emission reduction deadlines as specified in OAR 340-~~032-0320244-0120~~(1)(b), of all HAP from each emission point in the Early Reductions Unit listed in subsection (3)(b) of this rule;

(c) The supporting basis for each emission number provided in subsection (5)(b) of this rule including:

(A) For test results submitted as the supporting basis, a description of the test protocol followed, any problems encountered during the testing, a discussion of the validity of the method for measuring the subject emissions, and evidence that the testing was conducted in accordance with the Department's **Source Sampling Manual or Continuous Monitoring Manual**; and

(B) For calculations based on emission factors, material balance, or engineering principles and submitted as the supporting basis, a step-by-step description of the calculations, including assumptions used and their bases, and a brief rationale for the validity of the calculation method used.

(e) Evidence that there was no increase in radionuclide emissions from the source.

(6)(a) An owner or operator shall demonstrate that both total base year emissions and total base year emissions adjusted for high-risk pollutants (**Table 2**), as applicable, have been reduced by at least 90 percent for gaseous HAP emitted and 95 percent for particulate HAP emitted by determining the following for gaseous and particulate emissions separately:

(A) Total base year emissions, calculated by summing all base year emission data from subsection (4)(b) of this rule;

(B) Total post-reduction emissions, calculated by summing all post-reduction emission data from subsection (5)(b) of this rule;

(C) Total base year emissions adjusted for high-risk pollutants, calculated by multiplying each emission number for a pollutant from subsection (4)(b) of this rule by the appropriate weighing factor for the pollutant from **Table 2** and then summing all weighted emission data; and

(D) Total post-reduction emissions adjusted for high-risk pollutants, calculated by multiplying each emission number for a pollutant from subsection (5)(b) of this rule by the appropriate weighing factor for the pollutant from **Table 2** and then summing all weighted emission data;

(E) Percent reductions, calculated by dividing the difference between base year and post reduction emissions by the base year emissions. Separate demonstrations are required for total gaseous and particulate emissions, and total gaseous and particulate emissions adjusted for high-risk pollutants.

(b) If any points in the Early Reductions Unit emit both particulate and gaseous pollutants, as an alternative to the demonstration required in subsection (6)(a) of this rule, an owner or operator may demonstrate:

(A) A weighted average percent reduction for all points emitting both particulate and gaseous pollutants where the weighted average percent reduction is determined by:

$$\%_w = \frac{0.9(\underline{M}_g + 0.95(\underline{M}_p))}{\underline{M}_g + \underline{M}_p} \times 100$$

where:

$\%_w$ = The required weighted percent reduction

\underline{M}_g = The total mass rate (e.g., kg/yr) of all gaseous emissions

\underline{M}_p = The total mass rate of all particulate emissions and;

(B) The reductions required in subsection (6)(a) of this rule for all other points in each Early Reductions Unit.

(7) If lower rates or hours are used to achieve all or part of the emission reduction, any HAP emissions that occur from a compensating increase in rates or hours from the same activity elsewhere within the plant site that contains the Early Reductions Unit shall be counted in the post-reduction emissions from the Early Reductions Unit. If emission reductions are achieved by shutting down process equipment and the shutdown equipment is restarted or replaced anywhere within the plant site, any hazardous air pollutant emissions from the restarted or replacement equipment shall be counted in the post-reduction emissions for the Early Reductions Unit.

(8) The best available data representing actual emissions for the purpose of establishing base year or post-reduction emissions under this rule shall consist of documented results from source tests using an EPA Reference Method, EPA Conditional Method, or the owner's or operator's source test method that has been validated pursuant to **Method 301 of 40 CFR Chapter I Part 63 Appendix A, dated June 1992**. However, if one of the following conditions exists, an owner or operator may submit, in lieu of results from source tests, calculations based on engineering principles, emission factors, or material balance data as actual emission data for establishing base year or post-reduction emissions:

(a) No applicable EPA Reference Method, EPA Conditional Method, or other source test method exists;

(b) It is not technologically or economically feasible to perform source tests;

(c) It can be demonstrated to the satisfaction of the Department that the calculations will provide emission estimates of accuracy comparable to that of any applicable source test method;

(d) For base year emission estimates only, the base year conditions no longer exist at an emission point in the Early Reductions Unit and emission data could not be produced for such an emission point, by performing source tests under currently existing conditions and converting the test results to reflect base year conditions, that is more accurate than an estimate produced by using engineering principles, emission factors, or a material balance; or

(e) The emissions from one or a set of emission points in the Early Reductions Unit are small compared to total Early Reductions Unit emissions and potential errors in establishing emissions from such points will not have a significant effect on the accuracy of total emissions established for the Early Reductions Unit.

(9) For base year or post-reduction emissions established under this rule that are not supported by source test data, the source owner or operator shall include the reason source testing was not performed.

(10) The EPA average emission factors for equipment leaks cannot be used under this subpart to establish base year emissions for equipment leak Early Reductions Units, unless the base year emission number calculated using the EPA average emission factors for equipment leaks also is used as the post-reduction emission number for equipment leaks from the Early Reductions Unit.

(11) A source owner or operator shall not establish base year or post-reduction emissions that include any emissions from the Early Reductions Unit exceeding allowable emission levels specified in any applicable law, regulation, or permit condition.

(12) For Early Reductions Units subject to paragraph (3)(c)(A) of this rule, an owner or operator shall document total base year emissions from an entire contiguous plant site under common control by providing the following information for all HAP from all emission points in the contiguous plant site under common control:

(a) A complete list of all emission points of HAP;

(b) The best available data accounting for all HAP emissions during the base year from each HAP emission point;

(c) Total base year emissions calculated by summing all base year emissions data from subsection (b) of this section.

(13) If a new pollutant is added to the list of HAP or high-risk pollutants, any source emitting such pollutant will not be required to revise an early reduction demonstration pursuant to this rule if alternative emission limits have previously been specified by permit for the Early Reductions Unit as provided for in OAR 340-032-0320244-0120(1).

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468A.310

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 24-1994, f. & cert. ef. 10-28-94; renumbered from OAR 340-032-0340.

340-032-0350244-0150

Review of Base Year Emissions

(1) Pursuant to the procedures of this rule, the Department shall review and approve or disapprove base year emissions data submitted in a permit application from an applicant that wishes to participate in the early reduction program. A copy of the permit application shall also be submitted to the EPA Region 10 Office.

(2) Within 30 days of receipt of base year emission data, the Department shall advise the applicant that:

(a) The base year emission data are complete as submitted; or

(b) The base year emission data are not complete and include a list of deficiencies that must be corrected before review can proceed.

(3) Within 60 days of a determination that a base year emission data submission is complete, the Department shall evaluate the adequacy of the submission with respect to the requirements of OAR 340-032-0340244-0140(2) through (4) and either:

(a) Propose to approve the submission and publish a notice in a newspaper of general circulation in the area where the source is located or in a state publication designed to give general public notice, providing the aggregate base year emission data for the source and the rationale for the proposed approval, noting the availability of the nonconfidential information contained in the submission for public inspection in at least one location in the community in which the source is located, providing for a public hearing upon request by at least ten interested persons, and establishing a 30 day public comment period that can be extended to 60 days upon request by at least ten interested persons; or

(b) Propose to disapprove the base year emission data and give notice to the applicant of the reasons for the disapproval. An applicant may correct disapproved base year data and submit revised data for review in accordance with this subsection, except that the review of a revision shall be accomplished within 30 days.

(4) If no adverse public comments are received by the reviewing agency on proposed base year data for a source, the data shall be considered approved at the close of the public comment period and a notice of the approval shall be sent to the applicant and published by the reviewing agency by advertisement in the area affected.

(5) If adverse public comments are received and the Department agrees that corrections are needed, the Department shall give notice to the applicant of the disapproval and reasons for the disapproval. An applicant may correct disapproved base year emission data and submit revised emission data. If a revision is submitted by the applicant that, to the satisfaction of the Department, takes into account the adverse comments, the Department will publish by advertisement in the area affected a notice containing the approved base year emission data for the source and send notice of the approval to the applicant.

(6) If adverse public comments are received and the Department determines that the comments do not warrant changes to the base year emission data, the Department will publish by advertisement in the area affected a notice containing the approved base year emission data for the source and the reasons for not accepting the adverse comments. A notice of the approval also shall be sent to the applicant.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468A.310

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340-032-0350.

340-032-0360244-0160

Early Reduction Demonstration Evaluation

(1) The Department will evaluate an early reduction demonstration submitted by the source owner or operator in a permit application with respect to the requirements of OAR 340-032-0340244-0140.

(2) An application for a compliance extension may be denied if, in the judgement of the Department, the owner or operator has failed to demonstrate that the requirements of OAR 340-032-0340244-0140 have been met. Specific reasons for denial include, but are not limited to:

- (a) The information supplied by the owner or operator is incomplete;
- (b) The required 90 percent reduction (95 percent in cases where the HAP is particulate matter) has not been demonstrated;
- (c) The base year or post-reduction emissions are incorrect, based on methods or assumptions that are not valid, or not sufficiently reliable or well documented to determine with reasonable certainty that required reductions have been achieved; or
- (d) The emission of HAP or the performance of emission control measures is unreliable so as to preclude determination that the required reductions have been achieved or will continue to be achieved during the extension period.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468A.310

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340-032-0360.

340-032-0370244-0170

Approval of Applications

(1) If an early reduction demonstration is approved and other requirements for a complete permit application are met, the Department shall establish by a permit issued pursuant to OAR ~~340-028-2100 through 340-028-2320~~ division 218, enforceable alternative emissions limitations for each Early Reductions Unit reflecting the reduction which qualified the Early Reductions Unit for the extension. However, if it is not feasible to prescribe a numerical emissions limitation for one or more emission points in the Early Reductions Unit, the Department shall establish such other requirements, reflecting the reduction which qualified the Early Reductions Unit for an extension, in order to assure that the 90 or 95 percent reduction, as applicable, is achieved.

(2) An alternative emissions limitation or other requirement prescribed pursuant to section (1) of this rule shall be effective and enforceable immediately upon issuance of the permit for the source and shall expire exactly six years after the compliance date of an otherwise applicable standard issued pursuant to Section 112(d) of the Act.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468A.310

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340-032-0370.

340-032-0380244-0180

Rules for Special Situations

(1) If more than one standard issued under Section 112(d) of the FCAA would be applicable to an Early Reductions Unit as defined under OAR ~~340-032-0330244-0130~~, then the date of proposal referred to in OAR ~~340-032-0310244-0110(3)~~, ~~340-032-0320244-0120(1)(b)~~, and ~~340-032-0340244-0140(5)(d)~~, is the date the first applicable standard is proposed.

(2) Sources emitting radionuclides are not required to reduce radionuclides by 90 (95) percent. Radionuclides may not be increased from the source as a result of the early reductions demonstration.

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468A.310

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; renumbered from OAR 340-032-0380.

Emission Standards

340-032-0500244-0200

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 shall 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 shall 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 demonstrate to the Department that it can comply with the required emission limitation by performing the performance test required by 40 CFR Part 63 subpart A within 180 days after startup.

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.040

~~National Emission Standards for Hazardous Air Pollutants for Source Categories~~

~~340-032-0505-244-0210~~

Emissions Limitation for Existing Sources

(1) Federal MACT. Existing major and area sources shall 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. After January 3, 1995 if the EPA fails to meet its schedule for promulgating a MACT standard for a source category, the Department shall approve HAP emissions limitations for existing major sources within that category on a case-by-case basis.

(a) Within 18 months of written notification by the Department of the applicability of a MACT standard the owner or operator of each existing major source within that category shall notify the Department whether that source will:

(A) Achieve at least the maximum degree of emissions reduction that is achieved in practice by the best controlled similar source, using measures listed in, but not limited to, OAR ~~340-032-0500~~244-0200(2); or

(B) Achieve at least the average emissions limitation achieved in practice by the best performing 12 percent of existing sources for sources in a category or subcategory with 30 or more sources nationwide, or at least the average emissions limitation achieved by the best performing five sources in a category or subcategory with fewer than 30 sources nationwide, using measures listed in, but not limited to, OAR ~~340-032-0500~~244-0200(2).

(b) Within 18 months of notification by the Department of the applicability of a MACT standard the owner or operator of each existing major source within that category shall file a permit application in accordance with OAR ~~340-032-0240~~218-0040, proposing an emissions limitation. In addition to the permit application requirements of OAR ~~340-032-0220~~218-0040 the applicant shall include an analysis of:

(A) Each reduction technique considered;

(B) The emissions reduction it would provide; and

(C) Its technical and economic feasibility.

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

(d) The Department shall 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 25;

(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 shall 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 the Department where a State determined MACT has been established or a case-by-case determination has been made.

(b) The owner or operator of the source may apply for, and the Commission may grant, a compliance extension of up to one year if such additional period is necessary for the installation of controls;

(c) Notwithstanding the requirements of this section, no existing source that has installed Best Available Control Technology (~~defined in Division 28~~) or been required to meet Lowest Achievable Emission Rate (~~defined in Division 28~~) prior to the promulgation of a federal MACT applicable to that emissions unit shall be 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 the Department.

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; renumbered from OAR 340-032-0505.

340-032-0510244-0220

Federal Regulations Adopted by Reference

(1) Except as provided in section (2) of this rule, **40 CFR Part 61, Subparts A through F, I, J, L, N through P, V and Y through FF (July 1, 1999) and 40 CFR Part 63, Subparts A, F, G, H, I, L, M, N, O, Q, R, S, T, U, W, X, Y, CC, DD, EE, GG, II, JJ, KK, LL, OO, PP, QQ, RR, VV and JJJ (July 1, 1998/1999)** are by reference adopted and incorporated herein.

(2) Where "Administrator" or "EPA" appears in **40 CFR Part 61 or 63**, "Department" shall be 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 61 Subparts adopted by this rule are titled as follows:

(a) Subpart A - General Provisions;

(b) Subpart B - Radon Emissions from Underground Uranium Mines;

(c) Subpart C - Beryllium;

(d) Subpart D - Beryllium Rocket Motor Firing;

(e) Subpart E - Mercury;

(f) Subpart F - Vinyl Chloride;

(g) Subpart I - Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensee and Not Covered by Subpart H;

(h) Subpart L - Benzene Emissions From Coke By-Product Recovery Plants;

(i) Subpart N - Inorganic Arsenic Emissions From Glass Manufacturing Plants;

(j) Subpart O - Inorganic Arsenic Emissions From Primary Copper Smelters;

(k) Subpart P - Inorganic Arsenic Emissions From Arsenic Trioxide and Metal Arsenic Facilities;

(l) Subpart V - Equipment Leaks (Fugitive Emission Sources);

(m) Subpart Y - Benzene Emissions From Benzene Storage Vessels; and

(n) Subpart FF - Benzene Waste Operations.

(34) 40 CFR Part 63 Subparts adopted by this rule are titled as follows:

(a) Subpart A - General Provisions;

(b) Subpart F - SO2/CO/NOx;

(c) Subpart G - SO2/CO/NOx - Process Vents, Storage Vessels, Transfer Operations;

(d) Subpart H - SO2/CO/NOx - Equipment Leaks;

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

(f) Subpart I - Coke Oven Batteries;

(g) Subpart M - Dry Cleaning Facilities using Perchloroethylene;

(h) Subpart N - Hard and Decorative Electroplating and Anodizing;

(i) Subpart O - Ethylene Oxide Sterilization;

(j) Subpart Q - Industrial Process Cooling Towers;

(k) Subpart R - Gasoline Distribution (Bulk Gasoline Terminals and Pipeline Breakout Stations);

(l) Subpart S - Pulp and Paper Industry;

(m) Subpart T - Halogenated Solvent Cleaning;

(n) Subpart U - Group I Polymers and Resins;

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

(p) Subpart X - Secondary Lead Smelting;

(q) Subpart Y - Marine Tank Vessel Loading Operations;

(r) Subpart CC - Petroleum Refineries;

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

(t) Subpart EE - Magnetic Tape Manufacturing Operations;

(u) Subpart GG - Aerospace Manufacturing Operations;

(v) Subpart II - Shipbuilding and Ship Repair (Surface Coating);

(w) Subpart JJ - Wood Furniture Manufacturing Operations;

- (x) Subpart KK - Printing and Publishing Industry;
- (y) Subpart LL - Primary Aluminum Reduction Plants;
- (z) Subpart OO - Tanks - Level 1;
- (aa) Subpart PP - Containers;
- (bb) Subpart QQ - Surface Impoundments;
- (cc) Subpart RR - Individual Drain Systems;
- (dd) Subpart VV - Oil-Water Separators and Organic-Water Separators;
- (ee) Subpart JJJ - Group IV Polymers and Resins.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

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; renumbered from OAR 340-032-0510.

340-032-5400-244-0230

Accidental Release Prevention

(1) List. For purposes of this rule the Commission adopts by reference the List of Regulated Substances and Thresholds for Accidental Release Prevention **40 CFR Part 68 Subpart F (July 1, ~~1998~~1999)** which includes the Department of Transportation Division 1.1 Explosive Standards List (49 CFR 172.101). (**Table 3**).

(2) Risk Management Plan. The owner or operator of a stationary source at which a substance listed in **Table 3** is present in greater than the threshold quantity shall prepare and implement a written risk management plan to detect and prevent or minimize accidental releases, and to provide a prompt emergency response to any such releases in order to protect human health and the environment.

(3) Compliance. The owner or operator of a stationary source required to prepare and implement a risk management plan under section (2) of this rule shall:

(a) Register the risk management plan with the EPA;

(b) Submit copies of the risk management plan to the U.S. Chemical Safety and Hazard Identification Board, the Department, and the Oregon Office of Emergency Management; and

(c) Submit as part of the compliance certification required under OAR 340-028-2160, annual certification to the Department that the risk management plan is being properly implemented.

(4) Compliance schedule:

(a) The owner or operator of a stationary source shall prepare and implement a risk management plan under section (2) of this rule according to the schedule promulgated by the EPA;

(b) The owner or operator of a stationary source that adds a listed substance or exceeds the threshold shall prepare and implement a risk management plan according to the schedule promulgated by the EPA.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.310

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 24-1994, f. & cert. ef. 10-28-94; DEQ 18-1998, f. & cert. ef. 10-5-98; renumbered from OAR 340-032-5400.

DIVISION 33248

LICENSING AND CERTIFICATION ASBESTOS REQUIREMENTS

340-033-0020248-0010

Definitions

— ~~As used in this Division:~~ The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) “Accredited” means a provider of asbestos abatement training courses authorized by the Department to offer training courses that satisfy requirements for worker training.

~~340-032-5590(2)~~ “Adequately wet” means to sufficiently mix or penetrate asbestos-containing material with liquid to prevent the release of particulate asbestos materials. The absence of visible emissions is not sufficient evidence of being adequately wet.

~~(3)~~ “Agent” means an individual who works on an asbestos abatement project for a contractor but is not an employee of the contractor.

~~(4)~~ “Asbestos” means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.

~~340-032-5590(2)~~ “Asbestos” means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.

~~(5)~~ “Asbestos Abatement Project” means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or disposal of any asbestos-containing material with the potential of releasing asbestos fibers from asbestos containing material into the air. Emergency fire fighting is not an asbestos abatement project.

~~340-032-5590(3)~~ “Asbestos abatement project” means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or disposal of any asbestos containing material with the potential of releasing asbestos fibers from asbestos containing material into the air. Emergency fire fighting is not an asbestos abatement project.

~~340-032-5590(5)~~ “Asbestos manufacturing operation” means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos with any other material(s) including commercial asbestos, and the processing of this combination into a product as specified in OAR 340-032-5590248-0210(3).

~~(6)~~ “Asbestos-Containing Material” means any material containing more than one percent asbestos by weight, including particulate asbestos material.

~~340-032-5590(5)~~ “Asbestos containing material” means asbestos or any material containing more than one percent (1%) asbestos by weight, including particulate asbestos material.

~~340-032-5590(7)~~ “Asbestos mill” means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos.

~~340-032-5590(8)~~ “Asbestos tailings” mean any solid waste product of asbestos mining or milling operations which contains asbestos.

~~340-032-5590(9)~~ “Asbestos Waste generator” means any person performing an asbestos abatement project or any owner or operator of a source subject to OAR 340-032-5590248-0010 through 340-032-5650248-0280 whose act or process generates asbestos-containing waste material.

~~340-032-5590(10)~~ “Asbestos-containing waste material” means any waste which contains asbestos tailings or any commercial asbestos, and is generated by a source subject to OAR 340-032-5500244-0200 and OAR 340-032-5590248-0210 through 340-032-5650248-0280. This term includes, but not limited to, filters from control devices, asbestos abatement project waste, and bags or containers that previously contained commercial asbestos.

~~340-032-5590(110)~~ "Asbestos waste shipment record" means the shipment document, required to be originated and signed by the asbestos waste generator; used to track and substantiate the disposition of asbestos-containing waste material.

~~(126)~~ "Certified supervisor" means a person who has a current Oregon supervisor certification card.

~~(137)~~ "Certified worker" means a person who has a current Oregon worker certification card.

~~(148)~~ "Contractor" means a person that undertakes for compensation an asbestos abatement project for another person.

~~340-032-5590(154)~~ "Commercial asbestos" means asbestos which is produced by extracting asbestos from asbestos ore.

~~(169)~~ "Commission" means the Environmental Quality Commission.

~~340-032-5590(172)~~ "Demolition" means the wrecking or removal of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

~~(180)~~ "Department" means the Department of Environmental Quality.

~~(194)~~ "Director" means the Director of the Department of Environmental Quality.

~~(2042)~~ "EPA" means the U.S. Environmental Protection Agency.

~~340-032-5590(213)~~ "Fabricating" means any processing (e.g., cutting, sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.

~~(2243)~~ "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

~~(2344)~~ "Friable Asbestos Material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry.

~~340-032-5590(14)~~ "~~Friable asbestos material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry.~~"

~~340-032-5590(2415)~~ "HEPA filter" means a high efficiency particulate air filter capable of filtering 0.3 micron particles with 99.97 percent efficiency.

~~340-032-5590(2516)~~ "Inactive asbestos-containing waste disposal site" means any disposal site for asbestos-containing waste where the operator has allowed the Department's solid waste permit to lapse, has gone out of business, or no longer receives asbestos-containing waste.

~~340-032-5590(2617)~~ "Interim storage of asbestos-containing material" means the storage of asbestos-containing waste material which has been placed in a container outside a regulated area until transported to an authorized landfill.

~~(2715)~~ "Licensed" means a contracting entity has met the Department's training and experience requirements to offer and perform asbestos abatement projects and has a current asbestos abatement contractor license. For purposes of this definition, a license is not a permit subject to OAR Chapter 340, Division 14.

~~340-032-5590(218)~~ "Nonfriable asbestos-containing material" means any material containing more than one percent (1%) asbestos as determined by weight that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

~~340-032-5590(2429)~~ "Open accumulation" means any accumulation, including storage, of friable asbestos-containing waste material other than material securely enclosed and stored as required by OAR ~~340-032-5650248-0280~~.

~~340-032-5590(3019)~~ "Particulate asbestos material" means any finely divided particles of asbestos material.

~~(316)~~ "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, municipal corporations, political sub-divisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

~~340-032-5590(3220)~~ "Renovation" means altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are excluded.

(3347) "Small-scale, short-duration activity" means a task for which the removal of asbestos is not the primary objective of the job, including, but not limited to:

- (a) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;
- (b) Replacement of an asbestos-containing gasket on a valve;
- (c) Installation or removal of a small section of wallboard;
- (d) Removal of asbestos-containing thermal system insulation not to exceed amounts greater than those which can be contained in a single glove bag;

(e) Minor repairs to damaged thermal system insulation which does not require removal;

(f) Repairs to asbestos-containing wallboard;

(g) Repairs, involving encapsulation, enclosure, or removal, to small amounts of friable asbestos-containing material in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those which can be contained in a single prefabricated mini-enclosure. Such an enclosure shall conform spatially and geometrically to the localized work area, in order to perform its intended containment function.

~~340-032-5590(22) "Small-scale, short-duration activity" means a task for which the removal of asbestos is not the primary objective of the job, including, but not limited to:~~

- ~~— (a) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;~~
- ~~— (b) Replacement of an asbestos-containing gasket on a valve;~~
- ~~— (c) Installation or removal of a small section of wallboard;~~
- ~~— (d) Removal of asbestos-containing thermal system insulation not to exceed amounts greater than those which can be contained in a single glove bag;~~

~~— (e) Minor repairs to damaged thermal system insulation which does not require removal;~~

~~— (f) Repairs to asbestos-containing wallboard;~~

~~— (g) Repairs involving encapsulation, enclosure or removal, to small amounts of friable asbestos-containing material in performance of emergencies or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those which can be contained in a single prefabricate mini-enclosure. Such an enclosure shall conform spatially and geometrically to the localized work area, in order to perform its intended containment function.~~

340-032-5590(3423) "Structural member" means any load-supporting member of a facility, such as beams and load-supporting walls; or any non-supporting member, such as ceilings and non-load-supporting walls.

(3518) "Training Day" means a day of classroom instruction that consists of at least seven hours of actual classroom instruction and hands-on practice.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.700

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90);

DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; renumbered from OAR 340-033-0020.

Asbestos Licensing and Certification Requirements

340-033-0010248-0100

Authority, Purpose, and Scope Applicability

~~(1) Authority. This Division is OAR 340-248-0100 through 340-248-0180 apply to asbestos contractor licensing, worker and supervisor certification, asbestos abatement trainer accreditation, administration and enforcement by the Department, and promulgated in accordance with and under the authority of ORS 468A.745.~~

~~— (2) Purpose. The purpose of this Division is to provide reasonable standards for:~~

~~— (a) Licensing of asbestos abatement project contractors;~~

~~— (b) Training and certification of asbestos abatement project supervisors and workers;~~

~~— (c) Accreditation of training providers for supervisors, and workers;~~

~~— (d) Administration and enforcement of this Division by the Department.~~

~~(3) Scope:~~

(a) ~~This Division is applicable~~ apply to any asbestos abatement project as defined in ~~340-033-0020248-0010~~(4) except as provided in subsections (b) and (c) of this section;

(b) ~~This Division does do~~ not apply to an asbestos abatement project exempted by OAR ~~340-032-5620248-0250~~(1);

(c) ~~This Division does do~~ not apply to persons performing vehicle brake and clutch maintenance or repair;

(d) ~~This Division provides~~ training, licensing, and certification standards for implementation of OAR ~~340-032-5590248-0200~~ through ~~340-032-5650248-0280~~, Emission Standards and Procedural Requirements for Asbestos.

Stat. Auth.: ORS 468.065, ORS 468A.745 & ORS 468A.750

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. 5-19-88, cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; renumbered from OAR 340-033-0010.

340-033-0030248-0110

General Provisions

(1) Persons engaged in an asbestos abatement project must be certified, unless exempted by OAR ~~340-033-0010248-0100~~(3).

(2) An owner or operator of a facility shall not allow any persons other than those employees of the facility owner or operator who are appropriately certified or a licensed asbestos abatement contractor to perform an asbestos abatement project in or on that facility. Facility owners and operators are not required to be licensed to perform asbestos abatement projects in or on their own facilities.

(3) Each contractor engaged in an asbestos abatement project must be licensed by the Department under the provisions of OAR ~~340-033-0040248-0120~~.

(4) Each person acting as the supervisor for any asbestos abatement project must be certified by the Department as a supervisor under the provisions of OAR ~~340-033-0050248-0130~~.

(5) Each person engaged in or working on any asbestos abatement project must be certified by the Department as a worker or as a supervisor under the provisions of OAR ~~340-033-0050248-0130~~.

(6) A certified supervisor is required to be present on each asbestos abatement project other than small-scale short-duration activity.

(7) Each training provider for asbestos abatement certification must be accredited by the Department under the provisions of OAR ~~340-033-0060248-0140~~.

(8) Each person licensed, certified, or accredited by the Department under the provisions of this Division shall comply with OAR ~~340-032-5590248-0010~~ through ~~340-032-5650248-0280~~ ~~and this Division~~. Such persons shall maintain a current address on file with the Department, or be subject to suspension or revocation of license, certification, or accreditation.

(9) The Department may accept evidence of violations of this Division from representatives of federal, state, or local agencies.

(10) A regional air pollution authority which has been delegated authority under OAR ~~340-032-0110244-0020~~(2) may inspect for and enforce against violations of licensing and certification regulations. A regional air pollution authority may not approve, deny, suspend or revoke a training provider accreditation, contractor license, or worker certification, but may refer violations to the Department and recommend denials, suspensions, or revocations.

(11) Any person who conducts an asbestos abatement project shall insure accessibility for the Department to perform inspections.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.707

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; renumbered from OAR 340-033-0030.

340-033-0040248-0120

Contractor Licensing

- (1) Contractors shall be licensed to perform asbestos abatement:
- (2) Application for licenses shall be submitted on forms prescribed by the Department and shall be accompanied by:
 - (a) Documentation that the contractor, or contractor's employee representative, is a certified supervisor;
 - (b) Certification that the contractor has read and understands the applicable Oregon and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations;
 - (c) A list of all certificates or licenses, issued to the contractor by any other jurisdiction, that have been suspended or revoked during the past year, and a list of any asbestos-related enforcement actions taken against the contractor during the past year;
 - (d) A list of additional project supervisors for asbestos abatement projects and their certification numbers;
 - (e) A summary of all asbestos abatement projects conducted by the contractor during the past 12 months;
 - (f) A license application fee.
- (3) The Department will review the application for completeness. If the application is incomplete, the Department shall notify the applicant in writing of the deficiencies.
- (4) The Department shall deny, in writing, a license to a contractor who has not satisfied the license application requirements.
- (5) The Department shall issue a license to the applicant after the license is approved.
- (6) The Department shall grant a license for a period of 12 months. Licenses may be extended during Department review of a renewal application.
- (7) Renewals:
 - (a) License renewals must be applied for in the same manner as required for the initial license;
 - (b) For renewal, the contractor or employee representative must have a valid certified supervisor card;
 - (c) The complete renewal application shall be submitted no later than 60 days prior to the expiration date.
- (8) The Department may suspend or revoke a license if the licensee:
 - (a) Fraudulently obtains or attempts to obtain a license;
 - (b) Fails at any time to satisfy the qualifications for a license;
 - (c) Fails to meet any applicable state or federal standard relating to asbestos abatement;
 - (d) Permits an untrained or uncertified worker to work on an asbestos abatement project;
 - (e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement;
 - (f) Fails to make current certification cards readily available at worksites for inspection by the Department;
 - (g) Fails to pay delinquent application fees, notification fees, and civil penalty assessments.
- (9) A contractor whose license has been revoked may reapply for a license after demonstrating to the Department that the cause of the revocation has been resolved.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.707

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; renumbered from OAR 340-033-0040.

340-033-0050248-0130

Certification

- (1) Persons on asbestos abatement projects shall be certified at one or more of the following levels:
 - (a) Certified supervisor. A certified supervisor may work as a certified worker without having separate certification as a worker;
 - (b) Certified worker.
- (2) Application for Certification-General Requirements:

(a) Persons applying to become certified supervisors or persons relying on prior training as described in OAR 340-033-~~0080~~248-0160 shall submit applications to the Department;

(b) Persons applying for worker certification without prior training and certified workers taking refresher courses shall apply directly to the accredited training provider using Department approved forms.

(3) Application to be a certified supervisor shall include:

(a) Documentation that the applicant has successfully completed the supervisor level training and examination as specified in OAR 340-033-~~0070~~248-0150 and the Department Asbestos Training Guidance Document; and

(b) Documentation that the applicant has:

(A) Been certified as a worker and has at least three months of asbestos abatement experience, including time on powered air purifying respirators and experience on at least five separate asbestos abatement projects; or

(B) Has successfully completed certified worker training and six months of general construction, environmental or maintenance supervisory experience demonstrating skills to independently plan, organize and direct personnel in conducting an asbestos abatement project. The Department shall have the authority to determine if any applicant's experience satisfies those requirements.

(4) Application to be a certified worker shall include documentation that the applicant applying to be a certified worker has successfully completed the level of training and examination as specified in OAR 340-033-~~0070~~248-0150 and the Department Asbestos Training Guidance Document.

(5) A certification card and a certificate of course completion shall be issued by the training course provider to an applicant who has fulfilled the requirements of certification.

(6) Certification at all levels is valid for a period of one year after the date of issue.

(7) Annual Recertification:

(a) Certified workers and supervisors must be approved by a training provider before taking a recertification refresher course;

(b) Training providers must ensure applicants possess valid certification before granting refresher course admission;

(c) Certified supervisors and workers must complete their annual recertification course during the three months prior to the expiration date of their certification card. Certified supervisors and workers may reinstate certification by taking the appropriate refresher course up to one year after the expiration date. After that time, such persons must take the initial course to be recertified.

(8) A current worker certification card shall be readily available for inspection by the Department at each asbestos abatement project for each worker or supervisor engaged in asbestos abatement activities.

(9) Suspensions and Revocations: The Department may suspend or revoke a person's certification for:

(a) Failure to comply with state or federal asbestos abatement regulations;

(b) Performing asbestos removal without having physical possession of a current certification card;

(c) Permitting the use or duplication of one's certification card or certificate by another;

(d) Obtaining certification from a training provider that does not have approval to offer training for the particular discipline from the Department or EPA;

(e) Failure to pay delinquent application fees, and civil penalties.

(10) A person whose certification has been revoked may apply for recertification 12 months after the revocation date.

Stat. Auth.: ORS 468 & ORS 468A

Stats Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 9-1989 (Temp), f. & cert. ef. 6-7-89; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 26-1995, f. & cert. ef. 12-6-95; renumbered from OAR 340-033-0050.

340-033-~~0060~~248-0140

Training Provider Accreditation

(1) General:

(a) Asbestos training courses or certification requiring accreditation under this Division may be provided by any person;

(b) Training providers offering training in Oregon to satisfy these certification requirements must be accredited by the Department;

(c) Each training course shall be individually accredited by the Department;

(d) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles;

(e) The Department may require any accredited training provider to use examinations developed by the Department in lieu of the examinations offered by the training provider;

(f) Training course providers shall permit representatives of the Department or its designee to attend, evaluate and monitor any training course without charge. The Department is not required to give advance notice of its inspection. The Department may suspend or withdraw approval of a training course based upon the criteria specified in OAR 340-033-0060248-0140(4);

(g) The Department may require accredited training providers to pay a fee equivalent to reasonable travel expenses for one Department representative to audit any accredited course which is not offered in the State of Oregon for compliance with this Division. This condition shall be an addition to the standard accreditation application fee.

(2) Application for Accreditation:

(a) Application for accreditation shall be submitted to the Department in writing on forms provided by the Department and attachments as stated in OAR 340-033-0060248-0140(2)(A) through 340-033-0060248-0140(2)(b). Such applications shall, at a minimum, contain the following information:

(A) Name, address, telephone number of the firm, individual(s), or sponsors conducting the course, including the name under which the training provider intends to conduct the training;

(B) The type of course(s) for which approval is requested;

(C) A detailed course outline showing topics covered and the amount of time given to each topic, including the hands-on skill training;

(D) A copy of the course manual, instructor notebooks and all printed material to be distributed in the course;

(E) A description of teaching methods to be employed, including description of audio-visual materials to be used. The Department may, at its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the Department will be returned to the applicant;

(F) A description of the hands-on facility to be utilized including protocol for instruction which includes working with asbestos-substitute materials, fitting and using respirators, use of glove-bag, donning protective clothing and constructing a decontamination unit, the number of students to be accommodated; the number of instructors; and the amount of time for hands-on skill training;

(G) A description of the equipment that will be used during both classroom lectures and hands-on training;

(H) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualification of each, as well as the subject matter covered by each;

(I) A copy of each written examination to be given including the scoring methodology to be used in grading the examination; and a detailed statement about the development and validation of the examination;

(J) A list of the tuition or other fees required;

(K) A sample of the certificate of completion;

(L) A description of the procedures and policies for re-examination of students who do not successfully complete the training course examination;

(M) A list of any states or accrediting systems that approve the training course;

(N) A description of student evaluation methods (other than written examination to be used) associated with the hands-on skill training, as applicable;

(O) A description of course evaluation methods used by students;

(P) Any restriction on attendance such as class size, language, affiliation, and/or target audience of class;

(Q) A description of the procedure for issuing replacement certification cards to workers who were issued a certification card or certification card label by the training provider within the previous 12 months and whose cards have been lost or destroyed;

(R) Any additional information or documentation as may be required by the Department to evaluate the adequacy of the application;

(S) Accreditation application fee.

(b) The training provider shall retain a copy of the application materials listed above for at least three years. Such applications shall be made available for inspection by the Department or its designees upon request.

(c) Application for initial training course accreditation and course materials shall be submitted to the Department at least 45 days prior to the requested approval date;

(d) Upon approval of an initial or refresher asbestos training course, the Department will issue a certificate of accreditation. The certificate is valid for one year from the date of issuance;

(e) Application for renewal of accreditation must follow the procedures described for the initial accreditation. In addition, course instructors must demonstrate that they have maintained proficiency in their instructional specialty and adult training methods during the 12 months prior to renewal.

(3) Training Provider Administrative Tasks. Accredited training providers shall perform the following as a condition of accreditation:

(a) Administer the training course only to those persons who have been approved by the Department, and/or have surrendered their expired certification cards to the trainer and others who are otherwise qualified according to these rules. Such persons are allowed to take the examination to complete the training course;

(b) Issue a numbered certificate and a photo certification card to each student who successfully passes the training course examination and meets all other requirements for certification. Each certificate and photo certification card shall include:

(A) A unique certificate number;

(B) Name of certified person;

(C) Training course completed;

(D) Dates of the training course;

(E) Date of the examination;

(F) An expiration date of one year after the date upon which the person successfully completed the course and examination;

(G) The name, address, and telephone number of the training provider that issued the certificate;

(H) A statement that the person receiving the certificate has completed the requisite training for asbestos certification as specified in OAR-340-033-0050248-0130.

(c) Provide the Department with advance payment for each certificate to be issued;

(d) Utilize and distribute as part of the course information or training aides furnished by the Department;

(e) Provide the Department with a monthly class schedule at least one week before the schedule begins.

Notification shall include time and location of each course. Training providers shall notify the Department within three days whenever any unscheduled class is given;

(f) Recordkeeping Requirements for Training Providers:

(A) Training providers must retain copies of all instructional materials used during classroom course.

(B) Training providers must retain copies of all instructor resumes and instructor approvals issued by either the Department or US EPA. Trainers must also record the instructors that taught each part of the course for each date that an accredited course is offered;

(C) Training providers must document various information for each accredited course:

(i) The date the exam was given;

(ii) Training course for which the exam was given;

(iii) The name of the exam proctor;

(iv) The name and score of each person taking the exam and a single copy of the exam;

(v) Attendance record;

(vi) Course evaluation form;

(D) Training providers shall maintain records of certificates issued to students. Such records shall contain:

- (i) Name, address, telephone number, social security number of person receiving the certificate;
- (ii) Certificate numbers given to each person;
- (iii) Photographs of persons
- (iv) Discipline for which certificate was given;
- (v) Dates of training and certificate expiration;

(E) Training providers shall maintain training records, as specified above, for a minimum of three years. Such records shall readily be available for inspection by the Department or its designee. If a training provider is not accredited, or ceases to give asbestos worker certification training, the training provider must notify and allow the Department to take possession of the records for lawful disposition.

(F) Training providers must submit information as required by the Department within 10 days or as directed by the Department.

(g) Notify the Department prior to issuing a replacement certification card;

(h) Accredited training providers must have their current accreditation certificates at the location where they are conducting training.

(4) Denial, Suspension or Revocation of Accreditation. The Director may deny, suspend or revoke an application or current accreditation upon finding of sufficient cause. Applicants and certificate holders shall also be advised of the duration of suspension or revocation and any conditions that must be met before certificate reinstatement. Applicants shall have the right to appeal the Director's determination through an administrative hearing in accordance with the provisions of OAR Chapter 340 Division 11. The following may be considered grounds for denial, revocation or suspension:

- (a) Misrepresentation of the extent of a training course's approval by a State or the EPA;
- (b) Failure to submit required information or notifications in a timely manner;
- (c) Failure to report to the Department any change in staff or program which substantially deviates from the information contained in the application;
- (d) Failure to maintain requisite records;
- (e) Falsification of accreditation records, instructor qualifications, or other accreditation information;
- (f) Failure to adhere to the training standards and requirements of this Division;
- (g) Failure to comply with the administrative tasks and any other requirement of this Division;
- (h) Providing concurrent training for either initial or refresher courses in combination for supervisors and asbestos workers;
- (i) Failure to pay delinquent application fees, notification fees, and civil penalties;
- (j) In addition to the criteria listed above, the Department may also suspend or withdraw a training course's approval where an approved training course instructor, or other person with supervisory authority over the delivery of training has been found in violation of other asbestos regulations administered by the Department or other agencies.

Stat. Auth.: ORS 468 & ORS 468A

Stats Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 26-1995, f. & cert. ef. 12-6-95; renumbered from OAR 340-033-0060.

~~340-033-0070248-0150~~

General Training Standards

(1) The training provider shall limit each class to a maximum of 25 participants unless granted an exception in writing by the Department. The student to instructor ratio for hands-on training shall be equal to or less than ten to one (10:1). To apply for an exception allowing class size to exceed 25, the course sponsor must submit the following information in writing to the Department for evaluation and approval prior to expanding the class size:

- (a) The new class size limit;
- (b) The teaching methods and techniques for training the proposed larger class;

- (c) The protocol for conducting the written examination; and
- (d) Justification for a larger class size.

(2) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.

(3) The Department may require any accredited training provider to use examinations developed by the Department in lieu of the examinations offered by the training provider.

(4) The Department may require accredited training providers to pay a fee equivalent to reasonable travel expenses for one Department representative to audit any accredited course which is not offered in the State of Oregon for compliance with this Division. This condition shall be an addition to the standard accreditation application fee.

(5) Courses of instruction required for certification shall be specific for each of the certificate categories and shall be in accordance with Department guidelines. The topics or subjects of instruction which a person must receive to meet the training requirements must be presented through a combination of lectures, demonstrations, and hands-on practice.

(6) Courses requiring hands-on training shall be presented in an environment suitable to permit participants to have actual experience performing tasks associated with asbestos abatement. Demonstrations not involving individual participation shall not substitute for hands-on training.

(7) Any person seeking certification as a supervisor shall successfully complete an accredited training course of at least five training days as outlined in the Department **Asbestos Training Guidance Document**. The training course shall include lectures, demonstrations, at least 14 hours of hands-on training, individual respirator fit testing, course review, and a written examination consisting of multiple choice questions. Successful completion of the training shall be demonstrated by achieving a passing score on the closed book examination, course attendance, and full participation in the hands-on training.

(8) Any person seeking certification as a worker shall successfully complete an accredited training course of at least four training days as outlined in the Department **Asbestos Training Guidance Document**. The training course shall include lectures, demonstrations, at least 14 hours of actual hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. Successful completion of the course shall be demonstrated by achieving a passing score on the closed book examination, course attendance, and full participation in the hands-on training.

(9) Refresher training shall be one training day for certified supervisors and workers. The refresher courses shall include a review of key areas of initial training, updates, and an examination of multiple choice questions as outlined in the Department **Asbestos Training Guidance Document**. Successful completion of the course shall be demonstrated by achieving a passing score on the closed book examination, course attendance, and full participation in any hands-on training.

[Publication: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90);

DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; renumbered from OAR 340-033-0070.

340-033-0080248-0160

Prior Training

Successful completion of a prior training course accredited by a governmental agency other than the Department may be used to satisfy the training and examination requirements of OAR 340-033-0050248-0130 and 340-033-0060248-0140 provided that all of the following conditions are met:

(1) The Department determines that the course and examination requirements are equivalent to or exceed the requirements of OAR 340-033-0050248-0130 and 340-033-0060248-0140 and the Department **Asbestos Training Guidance Document**, for the level of certification sought. State and local requirements may vary.

(2) For an applicant to qualify for a refresher course and certification, prior training must have occurred within two years of the application to the Department. Applicants must be currently EPA or equivalently certified in at least one state when applying for consideration under this section.

(3) The applicant who has received recognition from the Department for alternate initial training successfully completes an Oregon accredited refresher course and refresher course examination for the level of certification sought.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; renumbered from OAR 340-033-0080.

340-033-0090248-0170

Reciprocity

The Department may develop reciprocity agreements with other jurisdictions regarding all activities under this Division.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; renumbered from OAR 340-033-0090.

340-033-0100248-0180

Fees

(1) Fees shall be assessed to provide revenues to operate the asbestos control program. Fees are assessed for the following:

- (a) Contractor Licenses;
- (b) Worker and Supervisor Certifications;
- (c) Training Provider Accreditation;
- (d) Asbestos Abatement Project Notifications.

(2) Contractors shall pay a non-refundable license application fee of \$1,000 for a one year Asbestos Abatement Contractor license.

(3) Workers shall pay a non-refundable certification fee of:

- (a) \$65 for a one year certification as a certified supervisor;
- (b) \$45 for a one year certification as a certified worker.

(4) Training Providers shall pay a non-refundable accreditation application fee of:

- (a) \$320 for a one year accreditation to provide a course for training supervisors;
- (b) \$320 for a one year accreditation to provide a course for training workers;
- (c) \$320 for a one year accreditation to provide a course for refresher training for any level of certification.

(5) Requests for waiver of fees shall be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

[NOTE: The requirements and jurisdiction of the Department of Insurance and Finance, Oregon Occupational Safety and Health Division and any other state agency are not affected by this Division.]

Stat. Auth.: ORS 468.065, ORS 468A.745 & ORS 468A.750

Stats. Implemented: ORS 468A.750

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; renumbered from OAR 340-033-0100.

Asbestos Emission Standards and Procedural Requirements

340-248-0200

Applicability

OAR 340-248-0200 through 340-248-280 apply to asbestos milling, manufacturing, fabricating, abatement and disposal.

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

_____ Hist.:

340-032-5600248-0210

Emission Standards and Procedural Requirements for Asbestos

(1) Emission standard for asbestos mills. No person shall cause to be discharged into the atmosphere any visible emissions from any asbestos milling operation, including fugitive emissions, except as provided under OAR ~~340-032-5640248-0270~~(14) Air Cleaning. For purposes of this rule, the presence of uncombined water in the emission plume shall not be cause for failure to meet the visible emission requirement. Outside storage of asbestos materials is not considered a part of an asbestos mill. Each owner or operator of an asbestos mill shall meet the following requirements:

(a) Monitor each potential source of asbestos emissions from any part of the mill facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operations. The monitoring shall be by visual observation of at least 15 seconds duration per source of emissions;

(b) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunction including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this subsection, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:

(A) Maintenance schedule;

(B) Recordkeeping plan.

(c) Maintain records of the results of visible emissions monitoring and air cleaning device inspections using a format approved by the Department which includes the following:

(A) Date and time of each inspection;

(B) Presence or absence of visible emissions;

(C) Condition of fabric filters, including presence of any tears, holes, and abrasions;

(D) Presence of dust deposits on clean side of fabric filters;

(E) Brief description of corrective actions taken, including date and time;

(F) Daily hours of operation for each air cleaning device.

(d) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section;

(e) Retain a copy of all monitoring and inspection records for at least two years;

(f) Submit a copy of visible emission monitoring records to the Department quarterly. The quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter;

(g) Asbestos-containing waste material produced by any asbestos milling operation will be disposed of according to OAR ~~340-032-5650248-0280~~.

(2) Roadways and Parking Lots. No person may construct or maintain a roadway with asbestos tailings or asbestos-containing waste material on that roadway, unless (for asbestos tailings):

(a) It is a temporary roadway on an area of asbestos ore deposits (asbestos mine); or

(b) It is a temporary roadway at an active asbestos mill site and is encapsulated with a resinous or bituminous binder. The encapsulated road surface must be maintained at a minimum frequency of once per year to prevent dust emissions; or

(c) It is encapsulated in asphalt concrete meeting the specifications contained in **Section 401 of Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-85, 1985**, or their equivalent.

(3) Manufacturing. No person shall cause to be discharged into the atmosphere any visible emissions, except as provided in OAR ~~340-032-5640248-0270~~(14), from any building or structure in which manufacturing operations utilizing commercial asbestos are conducted, or directly from any such manufacturing operations if they are conducted outside buildings or structures, or from any other fugitive emissions. All asbestos-containing waste material produced by any manufacturing operation shall be

disposed of according to OAR 340-032-5650248-0280. Visible emissions from boilers or other points not producing emissions directly from the manufacturing operation; and having no possible asbestos material in the exhaust gases, shall not be considered for purposes of this rule. The presence of uncombined water in the exhaust plume shall not be cause for failure to meet the visible emission requirements:

(a) Applicability. Manufacturing operations considered for purposes of this rule are as follows:

(A) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials;

(B) The manufacture of cement products;

(C) The manufacture of fire proofing and insulating materials;

(D) The manufacture of friction products;

(E) The manufacture of paper, millboard, and felt;

(F) The manufacture of floor tile;

(G) The manufacture of paints, coatings, caulks, adhesives, or sealants;

(H) The manufacture of plastics and rubber materials;

(I) The manufacture of chlorine, using asbestos diaphragm technology;

(J) The manufacture of shotgun shell wads;

(K) The manufacture of asphalt concrete;

(L) Any other manufacturing operation which results or may result in the release of asbestos material to the ambient air.

(b) Monitor each potential source of asbestos emissions from any part of the manufacturing facility, including air cleaning devices, process equipment, and buildings housing material processing and handling equipment, at least once each day during daylight hours for visible emissions to the outside air during periods of operation. The monitoring shall be visual observation of at least 15 seconds;

(c) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this subsection, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:

(A) Maintenance schedule;

(B) Recordkeeping plan.

(d) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by the Department which includes the following:

(A) Date and time of each inspection;

(B) Presence or absence of visible emissions;

(C) Condition of fabric filters, including presence of any tears, holes and abrasions;

(D) Presence of dust deposits on clean side of fabric filters;

(E) Brief description of corrective actions taken, including date and time;

(F) Daily hours of operation for each air cleaning device.

(e) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section;

(f) Retain a copy of all monitoring and inspection records for at least two years;

(g) Submit quarterly a copy of the visible emission monitoring records to the Department if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter;

(h) Asbestos-containing waste material produced by any asbestos milling operation shall be disposed of according to OAR 340-032-5650248-0280.

(4) Open accumulation of friable asbestos-containing material or asbestos-containing waste material is prohibited.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Section (4)(a) - (d) renumbered to 340-025-0466; Section (5)(a-d) renumbered to 340-025-0467; Sections (6) - (12) renumbered to 340-025-0468; Sections (13) - (15) renumbered to 340-025-0469; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0465; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-032-5600.

340-032-5604248-0220

Reporting Requirements for Sources Using Air Cleaning Devices

(1) New sources covered by this rule shall submit the requested information 90 days prior to initial startup. Existing sources covered by this rule shall comply by March 1, 1996. Changes in the information provided to the Department shall be submitted within 30 days after the change.

(2) Sources covered by OAR ~~340-032-5600248-0210~~(1) Mills, ~~340-032-5600248-0210~~(3) Manufacturing, ~~340-032-5640248-0270~~(14) Fabricating, and ~~340-032-5605248-0230~~ Asbestos to Nonasbestos Conversion Operations, shall provide the following information to the Department.

(a) A description of the emission control equipment used for each process; and

(b) If a fabric filter device is used to control emissions,

(A) The airflow permeability in $\text{m}^3/\text{min}/\text{m}^2$ ($\text{ft}^3/\text{min}/\text{ft}^2$) if the fabric filter device uses a woven fabric, and, if the fabric is synthetic, whether the fill yarn is spun or not spun; and

(B) If the fabric filter device uses a felted fabric, the density in g/m^2 (oz/yd^2), the minimum thickness in millimeters (inches), and the airflow permeability in $\text{m}^3/\text{min}/\text{m}^2$ ($\text{ft}^3/\text{min}/\text{ft}^2$).

(c) If a HEPA filter is used to control emissions, the certified efficiency.

(3) For sources covered by this rule and subject to OAR ~~340-032-5650248-0280~~(1) through ~~340-032-5650248-0280~~(9) Asbestos Disposal Requirements:

(a) A brief description of each process that generates asbestos-containing waste material; and

(b) The average volume of asbestos-containing waste material disposed of, measured in m^3/day (yd^3/day); and

(c) The emission control methods used in all stages of waste disposal; and

(d) The type of disposal site or incineration site used for ultimate disposal, the name of the site operator, and the name and location of the disposal site.

(4) For sources covered by this rule and subject to OAR ~~340-032-5650248-0280~~(10) Active Disposal Sites and ~~340-032-5650248-0280~~(11) Inactive Disposal Sites:

(a) A brief description of the site; and

(b) The method or methods used to comply with the standard, or alternative procedures to be used.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 26-1995, f. & cert. ef. 12-6-95; renumbered from OAR 340-032-5604.

340-032-5605248-0230

Asbestos To Nonasbestos Conversion Operations

(1) 40 CFR Part 61.155 (July 1, 1995) is by this reference adopted and incorporated herein.

(2) The following substitutions shall be made in 40 CFR Part 61.155:

(a) "Administrator" means "Department";

~~(b) §61.07 means OAR 340-032-1720~~

~~(c) §61.07(b)(3) means OAR 340-032-1770~~

~~(d)~~ §61.150 means OAR ~~340-032-5650248-0280~~

~~(e)~~ §61.152 means OAR ~~340-032-5640248-0270~~(13)

~~(f)~~ §61.154 means OAR ~~340-032-5650248-0280~~

~~(g)~~ §61.154(e) means OAR ~~340-032-5650248-0280~~(10)(a)(C)-(G)

~~(h)~~ §61.154(f) means OAR ~~340-032-5650248-0280~~(10)(b)

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 26-1995, f. & cert. ef. 12-6-95; renumbered from OAR 340-032-5605.

~~340-032-5610248-0240~~

Asbestos Inspection Requirements for Oregon Title V Operating Permit Program Sources

This rule applies to renovation and demolition activities at major sources subject to the Oregon Title V Operating Permit program as defined in OAR 340-028-0110200-0020.

(1) To determine applicability of the Department's asbestos regulations, the owner or operator of a renovation or demolition project shall thoroughly inspect the affected area for the presence of asbestos.

(2) For demolition projects where no asbestos-containing material is present, written notification shall be submitted to the Department on an approved form. The notification shall be submitted by the owner or operator or by the demolition contractor as follows:

(a) Submit the notification, as specified in section (3) of this rule, to the Department at least ten days before beginning any demolition project.

(b) The Department shall be notified prior to any changes in the scheduled starting or completion dates or other substantial changes or the notification of demolition will be void.

(3) The following information shall be provided for each notification of demolition:

(a) Name, address, and telephone number of the person conducting the demolition.

(b) Contractor's Oregon demolition license number, if applicable.

(c) Certification that no asbestos was found during the predemolition asbestos inspection and that if asbestos-containing material is uncovered during demolition the procedures found in OAR 340-032-5620248-0250 through OAR 340-032-5650248-0280 will be followed.

(d) Description of building, structure, facility, installation, vehicle, or vessel to be demolished, including:

(A) The age, present and prior use of the facility;

(B) Address or location where the demolition project is to be accomplished.

(e) Major source owner's or operator's name, address and phone number.

(f) Scheduled starting and completion dates of demolition work.

(g) Any other information requested on the Department form.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 20-1993 (Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-032-5610.

~~340-032-5620248-0250~~

Asbestos Abatement Projects

(1) Any person who conducts an asbestos abatement project shall comply with OAR 340-032-5630248-0260 and 340-032-5640248-0270(1) through (11). The following asbestos abatement projects are exempt from OAR 340-032-5630248-0260, 340-032-5640248-0270(1) through (11), and ~~Division 33~~ OAR 340-248-0100 through 340-248-0180:

(a) Asbestos abatement conducted in a single private residence which is occupied by the owner and the owner-occupant performs the asbestos abatement.

(b) Mastics and roofing products that are fully encapsulated with a petroleum-based binder that are not hard, dry, and brittle. This exemption shall end whenever these materials are burned, shattered, crumbled, pulverized, or reduced to dust.

(c) Removal of less than three square feet or three linear feet of asbestos-containing material provided that the removal of asbestos is not the primary objective and methods of removal are in compliance with OAR 437 Division 3 "Construction" (29 CFR 1926, 1101(g)). An asbestos abatement project shall not be subdivided into smaller sized units in order to qualify for this exemption.

(d) Removal of asbestos-containing materials which are sealed from the atmosphere by a rigid casing, provided that the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling, and transport to an authorized disposal site.

(2) Accumulation of asbestos-containing material or asbestos-containing waste material is prohibited.

(3) Any person who removes non-friable asbestos-containing material not exempted under OAR 340-032-5620248-0250(1) shall comply with the following:

(a) Submit notification and fee to the Department Business Office on a Department form in accordance with OAR 340-~~032-5630248-0260~~.

(b) Removal of nonfriable asbestos-containing materials that are not shattered, crumbled, pulverized or reduced to dust until delivered to an authorized disposal site is exempt from OAR 340-~~032-5640248-0270~~(10) and OAR 340-~~033-0030248-0110~~. This exemption shall end whenever the asbestos-containing material becomes friable and releases asbestos fibers into the environment.

[NOTE: The requirements and jurisdiction of the Department of Insurance and Finance, Oregon Occupational Safety and Health Division and any other state agency are not affected by OAR 340-032-5500 through 340-~~032-5650248-0280~~.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Section (1)(a) - (d) renumbered from 340-025-0465(4)(a) - (d); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0466; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95; renumbered from OAR 340-032-5620.

340-032-5630248-0260

Asbestos Abatement Notifications Requirements

Written notification of any asbestos abatement project shall be provided to the Department on a Department form. The notification must be submitted by the facility owner or operator or by the contractor in accordance with one of the procedures specified in sections (1), (2), or (3) of this rule except as provided in sections (5), (6), and (7).

(1) Submit the notifications as specified in section (4) of this rule and the project notification fee to the Department at least ten days before beginning any friable asbestos abatement project and at least five days before beginning any non-friable asbestos abatement project.

(a) The project notification fee shall be:

(A) \$35 for each project less than 40 linear feet or 80 square feet, residential building, or non-friable asbestos abatement project.

(B) \$70 for each project greater than or equal to 40 linear feet or 80 square feet but less than 260 linear feet or 160 square feet of asbestos-containing material.

(C) \$275 for each project greater than or equal to 260 linear feet or 160 square feet, and less than 1300 linear feet or 800 square feet of asbestos-containing material.

(D) \$375 for each project greater than or equal to 1300 linear feet or 800 square feet, and less than 2600 linear feet or 1600 square feet of asbestos-containing material.

(E) \$650 for each project greater than or equal to 2600 linear feet or 1600 square feet, and less than 5000 linear feet or 3500 square feet of asbestos-containing material.

(F) \$750 for each project greater than or equal to 5000 linear feet or 3500 square feet, and less than 10,000 linear feet or 6000 square feet of asbestos-containing material.

(G) \$1,200 for each project greater than or equal to 10,000 linear feet or 6000 square feet, and less than 26,000 linear feet or 16,000 square feet of asbestos-containing material.

(H) \$2,000 for each project greater than or equal to 26,000 linear feet or 16,000 square feet, and less than 260,000 linear feet or 160,000 square feet of asbestos-containing material.

(I) \$2,500 for each project greater than 260,000 linear feet or 160,000 square feet of asbestos-containing material.

(J) \$260 for annual notifications for friable asbestos abatement projects involving 40 linear feet or 80 square feet or less of asbestos removal.

(K) \$350 for annual notifications for non-friable asbestos abatement projects performed at schools, colleges, and facilities.

(b) Project notification fees shall be payable with the completed project notification form. No notification will be considered to have occurred until the notification fee is submitted.

(c) The ten day notification requirement in section (1) of this rule may be temporarily waived in emergencies which directly affect human life, health, and property. This includes:

- (A) Emergencies where there is an imminent threat of loss of life or severe injury; or
- (B) Emergencies where the public is exposed to air-borne asbestos fibers; or
- (C) Emergencies where significant property damage will occur if repairs are not made.

(d) The ten day notification requirement in section (1) of this rule may be temporarily waived for asbestos abatement projects which were not planned, resulted from unexpected events, and which if not immediately performed will cause damage to equipment or impose unreasonable financial burden. This includes the non-routine failure of equipment.

(e) In either subsection (c) or (d) of this section persons responsible for such asbestos abatement projects shall notify the Department by telephone prior to commencing work, or by 9 am of the next working day if the work was performed on a weekend or holiday. In any case notification as specified in section (4) of this rule and the appropriate fee shall be submitted to the Department within three days of commencing emergency or unexpected event asbestos abatement projects.

(f) The Department shall be notified prior to any changes in the scheduled starting or completion dates or other substantial changes or the notification will be void.

(g) If an asbestos project, equal to or greater than 2,600 linear feet or 1,600 square feet continues for more than one year, a new notification and fee shall be submitted annually thereafter until the project is complete.

(h) Residential buildings shall include: site built homes, modular homes constructed off site, mobile homes, and duplexes or other multi unit residential buildings consisting of four units or less.

(2) Annual notification for friable asbestos abatement projects. This notification shall only be used for projects where no more than 40 linear or 80 square feet of asbestos-containing material is removed. These projects shall only be conducted at one or more facilities by a single contractor or a single facility owner with a centrally controlled asbestos operation.

(a) Establish eligibility for use of this notification procedure with the Department prior to use;

(b) Maintain on file with the Department a general asbestos abatement plan. The plan shall contain the information specified in subsections (4)(a) through (4)(i) of this rule to the extent possible;

(c) Provide to the Department a summary report of all asbestos abatement projects conducted using the annual notification procedure, in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report shall include the information specified in subsections (4)(i) through (4)(l) of this rule for each project, a description of any significant variations from the general asbestos abatement plan; and a description of asbestos abatement projects anticipated for the next quarter;

(d) Provide to the Department, upon request, a list of asbestos abatement projects which are scheduled or are being conducted at the time of the request;

(e) Submit project notification and fee prior to use of this annual notification procedure;

(f) Failure to provide payment for use of this notification procedure shall void the general asbestos abatement plan and each subsequent abatement project shall be individually assessed a project notification fee.

(3) Annual non-friable asbestos abatement projects shall only be performed at schools, colleges, and facilities where the removal work is done by certified asbestos abatement workers. Submit the notification as follows:

(a) Establish eligibility for use of this notification procedure with the Department prior to use;

(b) Maintain on file with the Department a general non-friable asbestos abatement plan. The plan shall contain the information specified in subsections (4)(a) through (4)(i) of this rule to the extent possible;

(c) Provide to the Department a summary report of all non-friable asbestos abatement projects conducted in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report shall include the information specified in subsections (4)(i) through (4)(l) of this rule for each project, a description of any significant variations from the general asbestos abatement plan, and a list describing the non-friable asbestos abatement projects anticipated for the next quarter, where possible;

(d) Submit project notification and fee prior to use of this notification procedure;

(e) Failure to provide payment for use of this notification procedure shall void the general non-friable asbestos abatement plan and each subsequent non-friable abatement project shall be individually assessed a project notification fee.

(4) The following information shall be provided for each notification:

(a) Name and address of person conducting asbestos abatement.

(b) Contractor's Oregon asbestos abatement license number, if applicable, and certification number of the supervisor for asbestos abatement or certification number of the trained worker for a project which does not have a supervisor.

(c) Method of asbestos abatement to be employed.

(d) Procedures to be employed to insure compliance with OAR ~~340-032-5640248-0270~~ and ~~340-032-5650248-0280~~.

(e) Names, addresses, and phone numbers of waste transporters.

(f) Name and address or location of the waste disposal site where the asbestos-containing waste material will be deposited.

(g) Description of asbestos disposal procedure.

(h) Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated, including:

(A) The age, present and prior use of the facility;

(B) Address or location where the asbestos abatement project is to be accomplished.

(i) Facility owner's or operator's name, address and phone number.

(j) Scheduled starting and completion dates of asbestos abatement work.

(k) Description of the asbestos type, approximate asbestos content (percent), and location of the asbestos-containing material.

(l) Amount of asbestos to be abated: linear feet, square feet, thickness.

(m) For facilities described in OAR ~~340-032-5640248-0270~~(5) provide the name, title and authority of the State or local government official who ordered the demolition, date the order was issued, and the date demolition is to begin.

(n) Any other information requested on the Department form.

(5) The project notification fees specified in this section shall be increased by 50% when an asbestos abatement project is commenced without filing of a project notification and/or submittal of a notification fee or when notification of less than ten days is provided under subsections (1)(c) and (d) of this rule.

(6) The Director may waive part or all of a project notification fee. Requests for waiver of fees shall be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship.

(7) Pursuant to ORS 468A.135, a regional authority may adopt project notification fees for asbestos abatement projects in different amounts than are set forth in this rule. The fees shall be based upon the costs of the regional authority in carrying out the delegated asbestos program. The regional authority may collect, retain, and expend such project notification fees for asbestos abatement projects within its jurisdiction.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Renumbered from 340-025-0465(5)(a) - (d); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0467; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 26-1995, f. & cert. ef. 12-6-95; renumbered from OAR 340-032-5630.

~~340-032-5640248-0270~~

Asbestos Abatement Work Practices and Procedures

The following procedures shall be employed during an asbestos abatement project to prevent emissions of particulate asbestos material into the ambient air:

(1) Remove asbestos-containing materials before any wrecking or dismantling that would break up the materials or preclude access to the materials for subsequent removal. However, asbestos-containing materials need not be removed before demolition if:

- (a) They are on a facility component that is encased in concrete or other similar material and are adequately wetted whenever exposed during demolition;
- (b) They were not discovered before demolition and cannot be removed because of unsafe conditions as a result of the demolition. Upon discovery the owner or operator performing the demolition shall:
 - (A) Stop demolition work immediately;
 - (B) Notify the Department immediately of the occurrence;
 - (C) Keep the exposed asbestos-containing materials and any asbestos-contaminated waste material adequately wet at all time until a licensed asbestos abatement contractor begins removal activities;
 - (D) Have the licensed asbestos abatement contractor remove and dispose of the asbestos-containing waste material.

(2) Asbestos-containing materials shall be adequately wetted when they are being removed. In renovation, maintenance, repair, and construction operations, where wetting would unavoidably damage equipment or is incompatible with specialized work practices, or presents a safety hazard, adequate wetting is not required if the owner or operator:

- (a) Obtains prior written approval from the Department for dry removal of asbestos-containing material;
- (b) Keeps a copy of the Department's written approval available for inspection at the work site;
- (c) Adequately wraps or encloses any asbestos-containing material during handling to avoid releasing fibers;
- (d) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project.

(3) When a facility component covered or coated with asbestos-containing materials is being taken out of the facility as units or in sections:

- (a) Adequately wet any asbestos-containing materials exposed during cutting or disjoining operation;
- (b) Carefully lower the units or sections to ground level, not dropping them or throwing them;
- (c) Asbestos-containing materials do not need to be removed from large facility components such as reactor vessels, large tanks, steam generators, but excluding beams if the following requirements are met:
 - (A) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the regulated asbestos-containing material; and
 - (B) The component is encased in leak-tight wrapping; and
 - (C) The leak-tight wrapping is labeled according to OAR ~~340-032-5650248-0280~~(2)(b) during all loading and unloading operations and during storage.

(4) For friable asbestos-containing materials being removed or stripped:

- (a) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with OAR ~~340-032-5650248-0280~~;
- (b) Carefully lower the materials to the floor, not dropping or throwing them;
- (c) Transport the materials to the ground via dust-tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections.

(5) If a facility is being demolished under an order of the state or a local governmental agency, issued because the facility is structurally unsound and in danger of imminent collapse, the requirements of sections (1), (2), (3), (4), and (6) of this rule shall not apply, provided that the portion of the facility that contains asbestos-containing materials is adequately wetted during the wrecking operation.

(6) Before a facility is demolished by intentional burning, all asbestos-containing material shall be removed and disposed of in accordance with OAR ~~340-032-5610248-0240~~ through ~~340-032-5650248-0280~~.

(7) None of the operations in sections (1) through (4) of this rule shall cause any visible emissions. Any local exhaust ventilation and collection system or vacuuming equipment used during an asbestos abatement project, shall be equipped with a HEPA filter or other filter of equal or greater collection efficiency.

(8) The Director may approve, on a case-by-case basis, requests to use an alternative to a public health protection requirement as provided by this rule for an asbestos abatement project. The contractor or facility owner or operator must submit in advance a written description of the alternative procedure which demonstrates to the Director's satisfaction that the proposed alternative procedure provides public health protection equivalent to the protection that would be provided by the specific provision, or that such level of protection cannot be obtained for the asbestos abatement project.

(9) Final Air Clearance Sampling Requirements apply to projects involving more than 160 square feet or 260 linear feet of asbestos-containing material. Before a containment around such an area is removed, the person(s), contractor or facility owner/operator performing the abatement shall document that the air inside the containment has no more than 0.01 fibers per cubic centimeter of air. The air sample(s) collected shall not exceed 0.01 fibers per cubic centimeter of air. The Department may grant a waiver to this section or exceptions to the following requirements upon written request:

(a) The air clearance samples shall be performed and analyzed by a party who is National Institute of Occupational Safety and Health (NIOSH) 582 certified and financially independent from the person(s) conducting the asbestos abatement project;

(b) Before final air clearance sampling is performed the following shall be completed:

(A) All visible asbestos-containing debris shall be removed according to the requirements of this section;

(B) The air and surfaces within the containment shall be sprayed with an encapsulant;

(C) Air sampling may commence when the encapsulant has settled sufficiently so that the filter of the sample is not clogged by airborne encapsulant;

(D) Air filtration units shall remain on during the air monitoring period.

(c) Air clearance sampling inside containment areas shall be aggressive and comply with the following procedures:

(A) Immediately prior to starting the sampling pumps, direct exhaust from a minimum one horse power forced air blower against all walls, ceilings, floors, ledges, and other surfaces in the containment;

(B) Then place stationary fans in locations which will not interfere with air monitoring equipment and directed toward the ceiling. Use one fan per 10,000 cubic feet of room space;

(C) Start sampling pumps and sample an adequate volume of air to detect concentrations of 0.01 fibers of asbestos per cubic centimeter according to NIOSH 7400 method;

(D) When sampling is completed turn off the pump and then the fan(s);

(E) As an alternative to meeting the requirements of paragraphs (A) through (D) of this subsection, air clearance sample analysis may be performed according to Transmission Electron Microscopy Analytical Methods prescribed by **40 CFR 763.99, Appendix A to Subpart E**.

(d) The person performing asbestos abatement projects requiring air clearance sampling shall submit the clearance results to the Department on a Department form. The clearance results must be received by the Department within 30 days after the completion date of the asbestos abatement project.

(10) Related Work Practices and Controls. Work practices and engineering controls employed for asbestos abatement projects by contractors and/or workers who are not otherwise subject to the requirements of the Oregon Department of Insurance and Finance, Oregon Occupational Safety and Health Division shall comply with the subsections of OAR Chapter 437, Division 3, "Construction" (**29 CFR 1926.1101(g)**) which limit the release of asbestos-containing material or exposure of other persons. As used in this section the term employer shall mean the operator of the asbestos abatement project and the term employee shall mean any other person.

(11) Spraying:

(a) No person shall cause to be discharged into the atmosphere any visible emissions from any spray-on application of materials containing more than one percent asbestos on a dry weight basis used to insulate or fireproof equipment or machinery, except as provided in section (13) of this rule. Spray-on materials used to insulate or fireproof buildings, structures, pipes, and conduits shall contain less than one percent asbestos on a dry weight basis. In the case of any city or area of local jurisdiction having ordinances or regulations for spray application materials more stringent than those in this section, the provisions of such ordinances or regulations shall apply;

(b) Twenty days before any person sprays asbestos materials to insulate or fireproof buildings, structures, pipes, conduits, equipment, or machinery, that person shall notify the Department in writing before the spraying operation begins. The notification shall contain the following:

(A) Name and address of person intending to conduct the spraying operation;

(B) Address or location of the spraying operation;

(C) The name and address of the owner of the facility being sprayed.

(c) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of subsections (a) and (b) of this section.

(12) Options for Air Cleaning. Rather than meet the no visible emissions requirements of OAR 340-032-5600248-0210(1) and (3), owners and operators may elect to use methods specified in section (13) of this rule.

(13) Air Cleaning. All persons electing to use air cleaning methods rather than comply with the no visible emission requirements shall meet one of the provisions of subsections (a) through (d) of this section and all of the requirements specified in subsections (e) and (f) of this section:

(a) Fabric filter collection devices must be used, except as provided in subsections (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than four inches (10.16 cm) water gauge as measured across the filter fabric. The air flow permeability, as determined by ASTM Method D737-75, must not exceed $30 \text{ ft.}^3/\text{min.}/\text{ft.}^2$ ($9 \text{ m}^3/\text{min.}/\text{m}^2$) for woven fabrics or $35 \text{ ft.}^3/\text{min.}/\text{ft.}^2$ ($11 \text{ m}^3/\text{min.}/\text{m}^2$) for felted fabrics with the exception that airflow permeability of $40 \text{ ft.}^3/\text{min.}/\text{ft.}^2$ ($12 \text{ m}^3/\text{min.}/\text{m}^2$) for woven and $45 \text{ ft.}^3/\text{min.}/\text{ft.}^2$ ($14 \text{ m}^3/\text{min.}/\text{m}^2$) for felted fabrics shall be allowed for filtering air emissions from asbestos ore dryers. Each square yard of felted fabric must weigh at least 14 ounces (475 grams per square meter) and be at least 1/16 inch (1.6 mm) thick throughout. Any synthetic fabrics used must not contain fill yarn other than that which is spun;

(b) If the use of fabric filters creates a fire or explosion hazard, the Department may authorize the use of wet collectors designed to operate with a unit contacting energy of at least 40 inches (101.6 cm) of water gauge pressure;

(c) If High Efficiency Particulate Air (HEPA) filters are used to control emissions the certified efficiency shall be at least 99.97 percent for particles 0.3 microns or greater;

(d) The Department may authorize the use of filtering equipment other than that described in subsection (14)(a), (b), or (c) of this rule if such filtering equipment is satisfactorily demonstrated to provide filtering of asbestos material equivalent to that of the described equipment;

(e) All air cleaning devices authorized by this section must be properly installed, operated, and maintained. Devices to bypass the air cleaning equipment may be used only during upset and emergency conditions, and then only for such time as is necessary to shut down the operation generating the particulate asbestos material;

(f) For fabric filters collection devices installed after January 10, 1989, provide for easy inspection for faulty bags.

(14) Fabricating. No person shall cause to be discharged into the atmosphere any visible emissions including fugitive emissions, except as provided in section (13) of this rule, from any fabricating operations including the following:

(a) Applicability. This section applies to the following fabricating operations using commercial asbestos:

(A) The fabrication of cement building products;

(B) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles;

(C) The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions and ceilings for marine construction; and flow control devices for the molten metal industry.

(b) Monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices, process equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring shall be by visual observation of at least 15 seconds duration per source of emissions;

(c) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this

subsection, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:

- (A) Maintenance schedule;
- (B) Recordkeeping plan.

(d) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by the Department which includes the following:

- (A) Date and time of each inspection;
- (B) Presence or absence of visible emissions;
- (C) Condition of fabric filters, including presence of any tears, holes, and abrasions;
- (D) Presence of dust deposits on clean side of fabric filters;
- (E) Brief description of corrective actions taken, including date and time;
- (F) Daily hours of operation for each air cleaning device.

(e) Furnish upon request and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section;

(f) Retain a copy of all monitoring and inspection records for at least two years;

(g) Submit a copy of the visible emission monitoring records to the Department quarterly. The quarterly report shall be postmarked by the 30th day following the end of the calendar quarter.

(15) Insulation. Molded insulating materials which are friable and wet-applied insulating materials which are friable after drying, installed after October 21, 1982, shall contain no commercial asbestos. The provisions of this section do not apply to insulating materials which are spray applied pursuant to section (11) of this rule.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ9-1988, f. 5-19-88. ef. 6-1-88 (and corrected 6-3-88); DEQ 18-1991, f. & cert. ef. 10-7-91; Renumbered from 340-025-0465(6) - (12); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0468; DEQ 15-1995, f. & cert. ef. 6-16-95; renumbered from OAR 340-032-5640.

340-032-5650248-0280

Asbestos Disposal Requirements

Work practices and procedures for packaging, storage, transport, and disposal of asbestos-containing waste material: The owner or operator of a source or an activity covered under the provisions of OAR 340-032-5600248-0210 through OAR 340-032-5650248-0280 or any other source of friable asbestos-containing waste material shall meet the following standards:

(1) There shall be no visible emissions to the atmosphere, except as provided in section (12) of this rule, during the collection; processing, including incineration; packaging; transporting; or deposition of any asbestos-containing waste material which is generated by such source.

(2) All asbestos-containing waste materials shall be adequately wetted to ensure that they remain wet until disposed of, and:

(a) Processed into nonfriable pellets or other shapes; or

(b) Packaged in leak-tight containers such as two plastic bags each with a minimum thickness of 6 mil., or fiber or metal drum. Containers are to be labeled as follows:

(A) The name of the asbestos waste generator and the location at which the waste was generated; and

(B) A warning label that states:

DANGER
Contains Asbestos Fibers
Avoid Creating Dust
Cancer and Lung Disease Hazard
Avoid Breathing Airborne
Asbestos Fibers

Alternatively, warning labels specified by 26.1101(k)(7) (8/10/94) may be used.

(3) Where the asbestos-containing materials are not removed from a facility prior to demolition as described in OAR 340-~~032-5640~~248-0270(5), adequately wet asbestos-containing waste material at all times after demolition and keep wet during handling and loading for transport to a disposal site. Such asbestos-containing waste materials, shall be transported in lined and covered containers for bulk disposal.

(4) The interim storage of asbestos-containing waste material shall protect the waste from dispersal into the environment and provide physical security from tampering by unauthorized persons. The interim storage of asbestos-containing waste material is the sole responsibility of the contractor, owner or operator performing the asbestos abatement project.

(5) All asbestos-containing waste material shall be deposited as soon as possible by the asbestos waste generator at:

(a) A waste disposal site authorized by the Department and operated in accordance with this rule; or

(b) A Department approved site that converts asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of OAR 340-~~032-5605~~248-0230 Asbestos to Nonasbestos Conversion Operations.

(6) Persons disposing of asbestos-containing waste material shall notify the landfill operator of the type and volume of the waste material and obtain the approval of the landfill operator prior to bringing the waste to the disposal site.

(7) For each waste shipment the following information shall be recorded on a Department form:

(a) Waste Generation

(A) The name, address, and telephone number of the asbestos waste generator.

(B) The number and type of asbestos-containing waste material containers and volume in cubic yards.

(C) A certification that the contents of this consignment are carefully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highways according to applicable regulations.

(b) Waste Transportation

(A) The date transported.

(B) The name, address, and telephone number of the transporter(s).

(c) Waste Disposal

(A) The name and telephone number of the disposal site operator.

(B) The name and address or location of the waste disposal site.

(C) The quantity of the asbestos-containing waste material in cubic yards.

(D) The presence of improperly enclosed or uncovered waste, or any asbestos-containing waste material not sealed in leak-tight containers.

(E) The date asbestos-containing waste is received at disposal site.

(8) For the transportation of asbestos-containing waste material:

(a) The asbestos waste generator shall:

(A) Maintain the asbestos waste shipment records and ensure that all the information requested on the Department form regarding waste generation and transportation has been supplied.

(B) Limit access into loading and unloading area to authorized personnel.

(C) Mark vehicles, while loading and unloading asbestos-containing waste, with signs (20 in. x 14 in.) that state:

DANGER
ASBESTOS DUST HAZARD
CANCER AND LUNG DISEASE HAZARD
Authorized Personnel Only

Alternatively, language that conforms to the requirements of 26.1101(k)(6) (8/10/94) may be used.

(b) The waste transporter shall:

(A) Immediately notify the landfill operator upon arrival of the waste at the disposal site.

(B) Provide a copy of the asbestos waste shipment record to the disposal site owners or operators when the asbestos-containing waste material is delivered to the disposal site.

(9) After initial transport of asbestos-containing waste material the asbestos waste generator shall:

(a) Receive a copy of the completed asbestos waste shipment record within 35 days, or determine the status of the waste shipment. A completed asbestos waste shipment record will include the signature of the owner or operator of the designated disposal site.

(b) Have a copy of the completed asbestos waste shipment record within 45 days, or submit to the Department a written report including:

(A) A copy of the asbestos waste shipment record for which a confirmation of delivery was not received; and

(B) A cover letter signed by the asbestos waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

(c) Keep asbestos waste shipment records, including a copy signed by the owner or operator of the designated waste disposal site, for at least three years. Make all disposal records available upon request to the Department. For an asbestos abatement project conducted by a contractor licensed under OAR 340-~~033-0040~~248-0120, the records shall be retained by the licensed contractor. For any other asbestos abatement project, the records shall be retained by the facility owner.

(10) Each owner or operator of an active asbestos-containing waste disposal site shall meet the following standards:

(a) For all asbestos-containing waste material received:

(A) Ensure that off-loading of asbestos-containing waste material is done under the direction and supervision of the landfill operator or their authorized agent and accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents visible emissions to the air.

(B) Ensure that off-loading of asbestos-containing waste material occurs at the immediate location where the waste is to be buried and restrict public access to off-loading area until waste is covered in accordance with paragraph (I), of this subsection.

(C) Maintain asbestos waste shipment records and ensure that all information requested on the Department form regarding waste disposal has been supplied.

(D) Retain a copy of asbestos waste shipment records for at least three years.

(E) Immediately notify the Department by telephone, followed by a written report to the Department the following working day, of the presence of improperly enclosed or uncovered waste. Submit a copy of the asbestos waste shipment record along with the report.

(F) As soon as possible and no longer than 30 days after receipt of the waste send a copy of the signed asbestos waste shipment record to the asbestos waste generator.

(G) Upon discovering a discrepancy between the quantity of waste designated on the asbestos waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the asbestos waste generator. Report in writing to the Department within the 15th day after receiving the waste any discrepancy between the quantity of waste designated on the asbestos waste shipment records and the quantity actually received which cannot be reconciled between the asbestos waste generator and the waste disposal site. Describe the discrepancy and attempts to reconcile it, and submit a copy of the asbestos waste shipment record along with the report. Identify the Department assigned asbestos project number in the discrepancy report.

(H) Select the waste burial site in an area of minimal work activity that is not subject to future excavation.

(I) Cover all asbestos-containing waste material deposited at the disposal site with at least 12 inches of soil or six inches of soil plus 12 inches of other waste before compacting equipment runs over it but not later than the end of the operating day.

(b) Maintain, until closure, record of the location, depth and area, and quantity in cubic yards of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.

(c) Excavation or disturbance of asbestos-containing waste material, that has been deposited at a waste disposal site and is covered, shall be considered an asbestos abatement project. The notification for any such project shall be submitted as specified in OAR 340-~~032-5630~~248-0260 but modified as follows:

(A) Submit the project notification and project notification fee to the Department at least 45 days before beginning any excavation or disturbance of asbestos-containing waste disposal site.

(B) Reason for disturbing the waste.

(C) Procedures to be used to control emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the Department may require changes in the emission control procedures to be used.

(D) Location of any temporary storage site and the final disposal site.

(d) Upon closure of an active asbestos-containing waste disposal site each owner or operator shall:

(A) Comply with all the provisions for inactive asbestos-containing waste disposal sites.

(B) Submit to the department a copy of records of asbestos waste disposal locations and quantities.

(C) Furnish upon request, and make available during normal business hours for inspection by the Department, all records required under this section.

(11) The owner or operator of an inactive asbestos-containing waste disposal site shall meet the following standards:

(a) Insure that a cover of at least two feet of soil or one foot of soil plus one foot of other waste be maintained.

(b) Grow and maintain a cover of vegetation on the area to prevent erosion of the non asbestos-containing cover of soil or other waste materials or in desert areas where vegetation would be difficult to maintain, a layer of at least three inches of well-graded, nonasbestos crushed rock may be placed and maintained on top of the final cover instead of vegetation.

(c) For inactive asbestos waste disposal sites for asbestos-containing tailings, a resinous or petroleum-based dust suppression agent that effectively binds dust to control surface air emissions may be used and maintained to achieve the requirements of subsections (a) and (b) of this section, provided prior written approval of the Department is obtained.

(d) Excavation or disturbance at any inactive asbestos-containing waste disposal site shall be considered an asbestos abatement project. The notification for any such project shall be submitted as specified in OAR ~~340-032-5630248-0260~~, but modified as follows:

(A) Submit the project notification and project notification fee to the Department at least 45 days before beginning any excavation or disturbance of asbestos-containing waste disposal site.

(B) Reason for disturbing the waste.

(C) Procedures to be used to control emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the Department may require changes in the emission control procedures to be used.

(D) Location of any temporary storage site and the final disposal site.

(e) Within 60 days of a site becoming inactive, request in writing that the Commission issue an environmental hazard notice for the site. This environmental hazard notice will in perpetuity notify any potential purchaser of the property that:

(A) The land has been used for the disposal of asbestos-containing waste material; and

(B) That the survey plot and record of the location and quantity of asbestos-containing waste disposed of within the disposal site required for active asbestos disposal sites have been filed with the Department; and

(C) The site is subject to OAR ~~340-032-5590248-0210~~ through ~~340-032-5650248-0280~~.

(12) Any waste which contains nonfriable asbestos-containing material not subject to this rule shall be handled and disposed of using methods that will prevent the release of airborne asbestos-containing material.

(13) Rather than meet the requirements of this rule, an owner or operator may elect to use an alternative storage, transport, or disposal method which has received prior written approval by the Department.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Renumbered from 340-025-

0465(13) - (15); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0469; DEQ 15-1995, f. & cert. ef. 6-16-95; renumbered from OAR 340-032-5650.

DIVISION 250

GENERAL CONFORMITY

Determining Conformity of General Federal Actions to State and Federal Implementation Plans

340-020-1500250-0010

Purpose

(1) The purpose of these rules is to implement Section 176(c) of the Clean Air Act (Act), (Public Law 88-206 as last amended by Public Law 101-549) and regulations under **40 CFR Part 51 subpart W (July 1, 1994)**, with respect to the conformity of general federal actions to the applicable implementation plan. Under those authorities no department, agency or instrumentality of the federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan. These rules set forth policy, criteria, and procedures for demonstrating and assuring conformity of such actions to the applicable implementation plan.

(2) Under Section 176(c) of the Act and **40 CFR Part 51 subpart W (July 1, 1994)**, a federal agency must make a determination that a federal action conforms to the applicable SIP in accordance with ~~OAR 340-020-1500 through 340-020-1600~~ this division before the action is taken.

(3) Section (2) of this rule does not include federal actions where either:

(a) A National Environmental Policy Act (NEPA) analysis was completed as evidenced by a final environmental assessment (EA), environmental impact statement (EIS), or finding of no significant impact (FONSI) that was prepared prior to January 31, 1994; or

(b) the following has been completed:

(A) Prior to January 31, 1994, an EA was commenced or a contract was awarded to develop the specific environmental analysis;

(B) Sufficient environmental analysis is completed by March 15, 1994 so that the federal agency may determine that the federal action is in conformity with the specific requirements and the purposes of the applicable SIP pursuant to the agency's affirmative obligation under Section 176(c) of the Act; and

(C) A written determination of conformity under Section 176(c) of the Act has been made by the federal agency responsible for the federal action by March 15, 1994.

(4) Notwithstanding any provision of ~~OAR 340-020-1500 through 340-020-1600~~ this division, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the NEPA, or the Act.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1500.

340-020-1520250-0020

Applicability

(1) Conformity determinations for federal actions in a nonattainment area or maintenance area related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53) must meet the procedures and criteria for transportation conformity as set forth in ~~OAR 340-020-0700 through 340-020-1070~~ division 252, in lieu of the procedures set forth in ~~OAR 340-020-1500 through 340-020-1600~~ this division.

(2) For federal actions in a nonattainment area or maintenance area not covered by section (1) of this rule, a conformity determination is required for each pollutant where the total of direct and indirect emissions caused by a federal action would equal or exceed any of the rates in sections (3)(a) and (b) of this rule.

(3) The following emission rates apply to federal actions pursuant to section (2) of this rule:

(a) For nonattainment areas: **Pollutant — Tons per year:**

(A) Ozone (VOCs or NO_x):

(i) Serious NAAs — 50;

(ii) Severe NAAs — 25;

(iii) Extreme NAAs — 10;

(iv) Other ozone NAAs (Outside an ozone transport region) — 100

(v) Marginal & moderate NAAs (Inside an ozone transport region):

(I) VOC — 50;

(II) NO_x — 100.

(B) Carbon Monoxide: All NAAs — 100;

(C) SO₂ or NO₂: All NAAs — 100;

(D) PM₁₀:

(i) Moderate NAAs — 100;

(ii) Serious NAAs — 70;

(iii) Pb: All NAAs — 25.

(b) For maintenance areas: **Pollutant — Tons per Year:**

(A) Ozone (NO_x), SO₂ or NO₂: All maintenance areas — 100;

(B) Ozone (VOCs): Maintenance areas:

(i) Inside ozone transport region — 50;

(ii) Outside ozone transport region — 100;

(C) Carbon Monoxide: All maintenance areas — 100;

(D) PM₁₀: All maintenance areas — 100;

(E) Pb: All maintenance areas — 25.

(4) The requirements of ~~OAR 340-020-1500 through 340-020-1600~~ this division shall not apply to:

(a) Actions where the total of direct and indirect emissions are below the emissions levels specified in subsection (b) of this section.

(b) The following actions which would result in no emissions increase or an increase in emissions that is clearly de minimis:

(A) Judicial and legislative proceedings.

(B) Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted.

(C) Rulemaking and policy development and issuance.

(D) Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities.

(E) Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training or law enforcement personnel.

(F) Administrative actions such as personnel actions, organizational changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties and fees.

(G) The routine, recurring transportation of material and personnel.

(H) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups or for repair or overhaul.

(I) Maintenance dredging and debris disposal where no new depths are required, applicable permits are required, and disposal will be at an approved site.

(J) Actions, such as the following, with respect to existing structures, properties, facilities and lands where future activities conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands; for example, relocation of personnel, disposition of federally owned existing structures, properties, facilities and lands, rent subsidies, operation and maintenance cost subsidies, the exercise of receivership and conservatorship authority, assistance in purchasing structures, and the production of coins and currency.

(K) The granting of leases, licenses such as for exports and trade, permits and easements where activities conducted will be similar in scope and operation to activities currently being conducted.

(L) Planning, studies, and provision of technical assistance.

(M) Routine operation of facilities, mobile assets and equipment.

(N) Transfer of ownership, interests, and titles in land, facilities and real and personal properties, regardless of the form or method of the transfer.

(O) The designation of empowerment zones, enterprise communities, or viticultural areas.

(P) Actions by any of the federal banking agencies of the Federal Reserve Banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency or instrumentality of the United States.

(Q) Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank to effect monetary or exchange rate policy.

(R) Actions that implement a foreign affairs function of the United States.

(S) Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.

(T) Transfers of real property, including land, facilities, and related personal property from a federal entity to another federal entity and assignments of real property, including land, facilities, and related personal property from a federal entity to another federal entity for subsequent deeding to eligible applicants.

(U) Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States.

(c) The following actions where the emissions are not reasonably foreseeable:

(A) Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level.

(B) Electric power marketing activities that involve the acquisition, sale and transmission of electric energy.

(d) Actions in nonattainment areas or maintenance areas which implement a decision to conduct or carry out a conforming program such as prescribed burning actions which are consistent with a conforming land management plan.

(5) Notwithstanding the other requirements of ~~OAR 340-020-1500 through 340-020-1600~~ this division, a conformity determination is not required for the following federal actions (or portion thereof):

(a) The portion of an action that includes major new or modified stationary sources that require a permit under the new source review (NSR) program (Section 173 of the Act) or the prevention of significant deterioration (PSD) program (Title I, part C of the Act).

(b) Actions in response to emergencies or natural disasters such as hurricanes, earthquakes, etc., which are commenced on the order of hours or days after the emergency or disaster and, if applicable, which meet the requirements of section (6) of this rule.

(c) Research, investigations, studies, demonstrations, or training, other than those exempted under section (4)(b) of this rule, where no environmental detriment is incurred or the particular action furthers air quality research, as determined by the state agency primarily responsible for the applicable SIP.

(d) Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g. hush houses for aircraft engines and scrubbers for air emissions).

(e) Direct emissions from remedial and removal actions carried out under the CERCLA and associated regulations to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other regulation under the provisions of CERCLA and applicable regulations issued under CERCLA.

(6) Federal actions which are part of a continuing response to an emergency or disaster under section (5)(b) of this rule and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under section (5)(b) of this rule are exempt from the requirements of ~~OAR 340-020-1500 through 340-020-1600~~ this division only if:

(a) The federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional 6 months, it is impractical to prepare the conformity analyses which would otherwise be required and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests and foreign policy commitments; or

(b) For actions which are to be taken after those actions covered by subsection (a) of this section, the federal agency makes a new determination as provided in subsection (a) of this section.

(7) Notwithstanding other requirements of ~~OAR 340-020-1500 through 340-020-1600~~this division, actions specified by individual federal agencies that have met the criteria set forth in section (8) of this rule and the procedures set forth in section (9) of this rule are presumed to conform, except as provided in section (11) of this rule.

(8) The federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in either subsection (a) or (b) of this section:

(a) The federal agency must clearly demonstrate using methods consistent with this rule that the total of direct and indirect emissions from the type of activities which would be presumed to conform would not:

(A) Cause or contribute to any new violation of any standard in any area;

(B) Interfere with provisions in the applicable SIP for maintenance of any standard;

(C) Increase the frequency or severity of any existing violation of any standard in any area;

(D) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(i) A demonstration of reasonable further progress;

(ii) A demonstration of attainment; or

(iii) A maintenance plan; or

(b) The federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emissions rates for a conformity determination that are established in section (3) of this rule, based, for example, on similar actions taken over recent years.

(9) In addition to meeting the criteria for establishing exemptions set forth in section (8) of this rule, the following procedures must also be complied with to presume that activities will conform:

(a) The federal agency must identify through publication in the Federal Register its list of proposed activities that are presumed to conform and the basis for the presumptions;

(b) The federal agency must notify the appropriate EPA Regional Office(s), state and local air quality agencies and, where applicable, the agency designated under section 174 of the Act and the MPO and provide at least 30 days for the public to comment on the list of proposed activities presumed to conform;

(c) The federal agency must document its response to all the comments received and make the comments, response, and final list of activities available to the public upon request; and

(d) The federal agency must publish the final list of such activities in the Federal Register.

(10) Notwithstanding the other requirements of ~~OAR 340-020-1500 through 340-020-1600~~this division, when the total of direct and indirect emissions of any pollutant from a federal action does not equal or exceed the rates specified in section (3) of this rule, but represents 10 percent or more of a non-attainment or maintenance area's total emissions of that pollutant, the action is defined as a regionally significant action and the requirements of ~~340-020-1500~~250-0010, and ~~OAR 340-020-1540~~250-0050 through ~~340-020-1590~~250-0100 shall apply for the federal action.

(11) Where an action otherwise presumed to conform under section (7) of this rule is a regionally significant action or does not in fact meet one of the criteria in section (8)(a) of this rule, that action shall not be presumed to conform and the requirements of ~~OAR 340-020-1500~~250-0020 and ~~340-020-1540~~250-0050 through ~~340-020-1590~~250-0100 shall apply for the federal action.

(12) The provisions of ~~OAR 340-020-1500 through 340-020-0600~~this division shall apply in all non-attainment/maintenance areas.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under ~~OAR 340-020-0047~~200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1520.

340-020-1510250-0030

Definitions

As used in ~~OAR 340-020-1500 through 340-020-1600~~: The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Affected federal land manager" means the federal agency or the federal official charged with direct responsibility for management of an area designated as Class I under the Act that is located within 100 km of the proposed federal action.

(2) "Applicable implementation plan" or "applicable SIP" means the portion (or portions) of the applicable SIP or most recent revision thereof, which has been approved under Section 110 of the Act, or promulgated under Section 110(c) of the Act (Federal implementation plan), or promulgated under Section 301(d) of the Act which implements the relevant requirements of the Act.

(3) "Areawide air quality modeling analysis" means an assessment on a scale that includes the entire nonattainment area or maintenance area which uses an air quality dispersion model to determine the effects of emissions on air quality.

(4) "Cause or contribute to any new violation of any standard in any area" means a federal action that:

(a) Causes a new violation of a NAAQS at a location in a nonattainment area or maintenance area which would otherwise not be in violation of the standard during the future period in question if the federal action were not taken; or

(b) Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment area or maintenance area in a manner that would increase the frequency or severity of the new violation.

(5) "Caused by", as used in the terms "direct emissions" and "indirect emissions," means emissions that would not otherwise occur in the absence of the federal action.

(6) "Criteria pollutant" means any pollutant for which there is established a NAAQS at **40 CFR part 50 (July 1, 1994)**.

(7) "Direct emissions" means those emissions of a criteria pollutant or precursors of a criteria pollutant that are caused or initiated by the federal action and occur at the same time and place as the action.

(8) "Emergency" means a situation where extremely quick action on the part of the Federal agencies involved is needed and where the timing of such federal activities makes it impractical to meet the requirements of ~~OAR 340-020-1500 through 340-020-1600~~ this division, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts, and military mobilizations.

(9) "Emissions budgets" means those portions of the applicable SIP's projected emissions inventories that describe levels of emissions (mobile, stationary, area, etc.) that provide for meeting reasonable further progress milestones, attainment, or maintenance for any criteria pollutant or precursors of a criteria pollutant.

(10) "Emissions offsets", for purposes of ~~OAR 340-020-1570-250-0080~~, means emissions reductions which are quantifiable, consistent with ~~OAR 340-028-1960 through 340-028-1980~~ division 268 and ~~OAR 340-224-0090~~, and the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other SIP provisions, enforceable at both the state and federal levels, and permanent within the timeframe specified by the program.

(11) "Emissions that a federal agency has a continuing program responsibility for" means emissions that are specifically caused by an agency carrying out its authorities, and does not include emissions that occur due to subsequent activities, unless such activities are required by the federal agency. Where an agency, in performing its normal program responsibilities, takes actions itself or imposes conditions that result in air pollutant emissions by a nonfederal entity taking subsequent actions, such emissions are covered by the meaning of a continuing program responsibility.

(12) "EPA" means the United States Environmental Protection Agency.

(13) "Federal action" means any activity engaged in by a department, agency, or instrumentality of the federal government, or any activity that a department, agency or instrumentality of the federal government supports in any way, provides financial assistance for licenses, permits, or approves under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). Where the federal action is a permit, license, or other approval for some aspect of a nonfederal undertaking, the relevant activity is the part, portion, or phase of the nonfederal undertaking that requires the federal permit, license, or approval.

(14) "Federal agency" means a federal department, agency, or instrumentality of the federal government.

(15) "Increase the frequency or severity of any existing violation of any standard in any area" means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed or would otherwise exist during the future period in question, if the project were not implemented.

(16) "Indirect emissions" means those emissions of a criteria pollutant or precursors of a criteria pollutant that:

(a) Are caused by the federal action, but may occur later in time or may be farther removed in distance from the action itself but are still reasonably foreseeable; and

(b) The federal agency can practicably control and will maintain control over due to a continuing program responsibility of the federal agency.

(17) "Local air quality modeling analysis" means an assessment of localized impacts on a scale smaller than the entire nonattainment area or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, which uses an air quality dispersion model to determine the effects of emissions on air quality.

(18) "Maintenance area" means an area with a maintenance plan approved under Section 175A of the Act.

(19) "Maintenance plan" means a revision to the applicable SIP, meeting the requirements of Section 175A of the Act.

(20) "Metropolitan Planning Organization" or "MPO" means that organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607.

(21) "Milestone" has the meaning given in Sections 182(g)(1) and 189(c)(1) of the Act.

(22) "National ambient air quality standards" or "NAAQS" means those standards established pursuant to Section 109 of the Act and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone, particulate matter (PM₁₀), and sulfur dioxide (SO₂).

(23) "NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

(24) "Nonattainment area" means an area designated as nonattainment under Section 107 of the Act and described in **40 CFR part 81 (July 1, 1994)**.

(25) "Precursors of a criteria pollutant" means:

(a) For ozone, nitrogen oxides (NO_x), unless an area is exempted from NO_x requirements under Section 182(f) of the Act, and volatile organic compounds (VOC); and

(b) For PM₁₀, those pollutants described in the PM₁₀ nonattainment area applicable SIP as significant contributors to the PM₁₀ levels.

(26) "Reasonably foreseeable emissions" means projected future indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known and the emissions are quantifiable, as described and documented by the federal agency based on its own information and after reviewing any information presented to the federal agency.

(27) "Regional water or wastewater projects" include construction, operation, and maintenance of water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment area or maintenance area.

(28) "Regionally significant action" means a federal action for which the direct emissions and indirect emissions of any pollutant represent 10 percent or more of a nonattainment area's or maintenance area's emissions inventory for that pollutant.

(29) "Total of direct and indirect emissions" means the sum of direct emissions and indirect emissions increases and decreases caused by the federal action; i.e., the "net" emissions considering all direct emissions and indirect emissions. The portion of emissions which are exempt or presumed to conform under OAR ~~340-020-1520~~250-0020 (4), (5), (6) or (7) are not included in the "total of direct and indirect emissions."

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-010-1510.

340-020-1530250-0040

Conformity Analysis

Any federal department, agency, or instrumentality of the federal government taking an action subject to OAR ~~340-020-1520~~250-0020(3) must make its own conformity determination consistent with the requirements of OAR ~~340-020-1500~~ through ~~340-020-1600~~this division. In making its conformity determination, a federal agency must consider comments from any interested parties. Where multiple federal agencies have jurisdiction for various aspects of a project, a federal agency may choose to adopt the analysis of another federal agency or develop its own analysis in order to make its conformity determination.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1530.

40-020-1540250-0050

Reporting Requirements

(1) A federal agency making a conformity determination under OAR 340-~~020-1570250-0080~~ must provide to the appropriate EPA Regional Office(s), state and local air quality agencies and, where applicable, affected federal land managers, the agency designated under Section 174 of the Act and the MPO a 30 day notice which describes the proposed action and the federal agency's draft conformity determination on the action.

(2) A federal agency must notify the appropriate EPA Regional Office(s), state and local air quality agencies and, where applicable, affected land managers, the agency designated under Section 174 of the Clean Air Act and the MPO within 30 days after making a final conformity determination under OAR 340-~~020-1570250-0080~~.

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-~~020-0047200-0040~~.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-020-1540.

340-020-1550250-0060

Public Participation

(1) Upon request by any person regarding a specific federal action, a federal agency must make available for review its draft conformity determination under OAR 340-~~020-1570250-0080~~ with supporting material which describe the analytical methods, assumptions and conclusions relied upon in making the applicability analysis and draft conformity determination.

(2) A federal agency must make public its draft conformity determination under ~~340-020-1570250-0080~~ by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.

(3) A federal agency must document its response to all the comments received on its draft conformity determination under ~~OAR 340-020-1570250-0080~~ and make the comments and responses available, upon request by any person regarding a specific federal action, within 30 days of the final conformity determination.

(4) A federal agency must make public its final conformity determination under ~~340-020-1570250-0080~~ for a federal action by placing notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination.

[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-~~020-0047200-0040~~.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-020-1550.

340-020-1560250-0070

Frequency of Conformity Determinations

(1) The conformity status of a federal action automatically lapses 5 years from the date a final conformity determination is reported under OAR 340-~~020-1540250-0050~~, unless the federal action has been completed or a continuous program has been commenced to implement that federal action within a reasonable time.

(2) Ongoing federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as the emissions associated with such activities are within the scope of the final conformity determination reported under OAR 340-~~020-1540250-0050~~.

(3) If, after the conformity determination is made, the federal action is changed so that there is an increase in the total of direct and indirect emissions above the levels in OAR 340-~~020-1520250-0020~~(4), a new conformity determination is required.

[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-~~020-0047200-0040~~.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-020-1560.

340-020-1570250-0080

Criteria for Determining Conformity of General Federal Actions

(1) An action required under OAR ~~340-020-1520250-0020~~ to have a conformity determination for a specific pollutant, will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in OAR ~~340-020-1520250-0020~~(3), or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of section (3) of this rule, and meets any of the following requirements:

(a) For any criteria pollutant, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration;

(b) For ozone or nitrogen dioxide, the total of direct and indirect emissions from the action are fully offset within the same nonattainment area or maintenance area through a revision to the applicable SIP or a similarly enforceable measure that effects emission reductions so that there is no net increase in emissions of that pollutant;

(c) For any criteria pollutant, except ozone and nitrogen dioxide, the total of direct and indirect emissions from the action meet the requirements:

(A) Specified in section (2) of this rule, based on areawide air quality modeling analysis and local air quality modeling analysis; or

(B) Meet the requirements of subsection (e) of this section and, for local air quality modeling analysis, the requirements of section (2) of this rule:

(d) For CO or PM₁₀:

(A) Where the Department or local air quality agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in section (2) of this rule, based on local air quality modeling analysis; or

(B) Where the Department or local air quality agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in section (2) of this rule, based on areawide modeling, or meet the requirements of subsection (e) of this section.

(e) For ozone or nitrogen dioxide, and for purposes of subsections (c)(B) and (d)(B) of this section, each portion of the action or the action as a whole meets any of the following requirements:

(A) Where EPA has approved a revision to an area's attainment or maintenance demonstration after 1990 and the state makes a determination as provided in subparagraph (i) of this paragraph or where the state makes a commitment as provided in subparagraph (ii) of this paragraph:

(i) The total of direct and indirect emissions from the action, or portion thereof, is determined and documented by the state agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area or maintenance area, would not exceed the emissions budgets specified in the applicable SIP;

(ii) The total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the state agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area or maintenance area, would not exceed the emissions budget specified in the applicable SIP and the State Governor or the Governor's designee for SIP actions makes a written commitment to EPA which includes the following:

(I) A specific schedule for adoption and submittal of a revision to the applicable SIP which would achieve the needed emission reductions prior to the time emissions from the federal action would occur;

(II) Identification of specific measures for incorporation into the applicable SIP which would result in a level of emissions which, together with all other emissions in the nonattainment area or maintenance area, would not exceed any emissions budget specified in the applicable SIP;

(III) A demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the federal action, and that local authority to implement additional requirements has been fully pursued;

(IV) A determination that the responsible federal agencies have required all reasonable mitigation measures associated with their action; and

(V) Written documentation including all air quality analyses supporting the conformity determination.

(iii) Where a federal agency made a conformity determination based on a state commitment under subparagraph (ii) of this paragraph such a state commitment is automatically deemed a call for a SIP revision by EPA under Section 110(k)(5) of the Act, effective on the date of the federal conformity determination and requiring response within 18 months or any shorter time within which the state commits to revise the applicable SIP.

(B) The action, or portion thereof, as determined by the MPO, is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP under **40 CFR part 51**,

subpart T (July 1, 1994) or 40 CFR part 93, subpart A (July 1, 1994), and OAR 340-020-0700 through 340-020-1070 division 252.

(C) The action, or portion thereof, fully offsets its emissions within the same nonattainment area or maintenance area through a revision to the applicable SIP or an equally enforceable measure that effects emission reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;

(D) Where EPA has not approved a revision to the relevant SIP attainment or maintenance demonstration since 1990, the total direct and indirect emissions from the action for the future years (described in OAR 340-020-1580250-0090(4)) do not increase emissions with respect to the baseline emissions:

(i) The baseline emissions reflect the historical activity levels that occurred in the geographic area affected by the proposed federal action during:

(I) Calendar year 1990;

(II) The calendar year that is the basis for the classification, or, where the classification is based on multiple years, the most representative year, if a classification is promulgated in **40 CFR part 81 (July 1, 1994)**; or

(III) The year of the baseline inventory in the PM₁₀ applicable SIP.

(ii) The baseline emissions are the total of direct and indirect emissions calculated for the future years (described in OAR 340-020-1580250-0090(4)) using the historic activity levels (described in subparagraph (i) of this paragraph) and appropriate emission factors for the future years; or

(E) Where the action involves regional water or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

(2) The areawide air quality modeling analysis or local air quality modeling analysis must:

(a) Meet the requirements in OAR 340-020-1580250-0090; and

(b) Show that the action does not:

(A) Cause or contribute to any new violation of any standard in any area;

(B) Increase the frequency or severity of any existing violation of any standard in any area.

(3) Notwithstanding any other requirements of this rule, an action subject to ~~OAR 340-020-1500 through 340-020-1600~~ this division may not be determined to conform to the applicable SIP unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements, and such action is otherwise in compliance with all relevant requirements of the applicable SIP.

(4) Any analyses required under this rule must be completed, and any mitigation requirements necessary for a finding of conformity must be identified in compliance with OAR 340-020-1590250-0100, before the determination of conformity is made.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1570.

340-020-1580250-0090

Procedures for Conformity Determinations of General Federal Actions

(1) The analyses required under OAR 340-020-1570250-0080 and 340-020-1580250-0090 must be based on the latest planning assumptions.

(a) All planning assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently approved by the MPO, or other agency authorized to make such estimates, where available.

(b) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or other agency authorized to make such estimates for the urban area.

(2) The analyses required under OAR 340-020-1570250-0080 and 340-020-1580250-0090 must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate and written approval of the EPA Regional Administrator is obtained for any modification of

substitution, they may be modified or another technique substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program.

(a) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in that state must be used for the conformity analysis as specified in subsections (A) and (B) of this section:

(A) The EPA must publish in the Federal Register a notice of availability of any new motor vehicle emissions model; and

(B) A grace period of three months shall apply during which the motor vehicle emissions model previously specified by EPA as the most current version may be used. Conformity analyses for which the analysis was begun during the grace period or no more than 3 years before the federal Register notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA.

(b) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "**Compilation of Air Pollutant Emission Factors (AP-42)**" must be used for conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

(3) The air quality modeling analyses required under OAR ~~340-020-1570250-0080~~ and ~~340-020-1580250-0090~~ must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "**Guideline on Air Quality Models (Revised)**"(1986), including supplements (EPA publication no. 450/2-78-027R), unless:

(a) The guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program; and

(b) Written approval of the EPA Regional Administrator is obtained for any modification or substitution.

(4) The analyses required under OAR ~~340-020-1570250-0080~~ and ~~340-020-1580250-0090~~ must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

(a) The Act mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;

(b) The year during which the total of direct and indirect emissions from the action for each pollutant is expected to be the greatest on an annual basis; and

(c) Any year for which the applicable SIP specifies an emissions budget.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1580.

~~340-020-1590250-0100~~

Mitigation of Air Quality Impacts

(1) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.

(2) Prior to determining that a federal action is in conformity, the federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to implement any mitigation measures which are identified as conditions for making conformity determinations. Such written comments shall describe the mitigation measures and the nature of the commitments in a manner consistent with section (1) of this rule.

(3) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

(4) In instances where the federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the federal agency must be conditioned on the other entity meeting the mitigation measures set forth in the conformity determination, as provided in section (1) of this rule.

(5) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures is

subject to the reporting requirements of OAR 340-~~020-1540~~250-0050 and the public participation requirements of OAR 340-~~20-1550~~250-0060.

(6) Written commitments to mitigation measures must be obtained prior to a positive conformity determination and all such commitments must be fulfilled.

(7) After the Department revises its SIP to adopt its general conformity rules and EPA approves that SIP revision, any agreements, necessary for a conformity determination will be both state and federally enforceable. Enforceability through the applicable SIP will apply to all persons who agree to mitigate direct emissions and indirect emissions associated with a federal action for a conformity determination.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1590.

340-020-1600250-0110

Savings Provision

The federal conformity rules under **40 CFR Part 51, Subpart W (July 1, 1994)**, in addition to any existing applicable state requirements, establish the conformity criteria and procedures necessary to meet the requirements of CAA Section 176(c) until such time as ~~OAR 340-020-1500 through 340-020-1600~~this division are approved by EPA. Following EPA approval of these rules, the state criteria and procedures in ~~OAR 340-020-1500 through 340-020-1600~~this division would govern conformity determinations. In addition, any previously applicable SIP requirements relating to conformity remain enforceable until the state revises its applicable implementation plan to specifically remove them, and that revision is approved by EPA.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 9-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-020-1600.

DIVISION 252

TRANSPORTATION CONFORMITY

Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act

340-020-0710252-0010

Purpose

The purpose of ~~OAR 340-020-0710 through 340-020-1070~~ this division is to implement section 176(c) of the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects which are developed, funded, or approved by the United States Department of Transportation (DOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). ~~OAR 340-020-0710 through 340-020-1070~~ This division sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to section 110 and Part D of the CAA.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0710.

340-020-0730252-0020

Applicability

(1) Action applicability. Except as provided for in section (3) of this rule or OAR ~~340-020-1050252-0270~~, conformity determinations are required for:

(a) The adoption, acceptance, approval or support of transportation plans and transportation plan amendments developed pursuant to **23 CFR Part 450** or **49 CFR Part 613** by an MPO or a DOT;

(b) The adoption, acceptance, approval or support of TIPs and TIP amendments developed pursuant to **23 CFR Part 450** or **49 CFR Part 613** by an MPO or DOT; and

(c) The approval, funding, or implementation of FHWA/FTA transportation projects or regionally significant projects by a recipient of funds under title 23 U.S.C.

(2) Geographic Applicability.

(a) The provisions of ~~OAR 340-020-0710 through 1070~~ this division shall apply in all nonattainment and maintenance areas for transportation related criteria pollutants for which the area is designated nonattainment or has a maintenance plan.

(b) The provisions of this rule apply with respect to emissions of the following criteria pollutants: ozone, carbon monoxide, nitrogen dioxide, and particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀).

(c) The provisions of this rule apply with respect to emissions of the following precursor pollutants:

(A) Volatile organic compounds and nitrogen oxides in ozone areas;

(B) Nitrogen oxides in nitrogen dioxide areas; and

(C) Volatile organic compounds, nitrogen oxides, and PM₁₀ in PM₁₀ areas if:

(i) The EPA Regional Administrator or the director of the Department of Environmental Quality, or the director of any other regional air authority has made a finding, including a finding in an applicable implementation plan or a submitted implementation plan revision that transportation related precursor emissions within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and DOT; or

(ii) The applicable implementation plan, or implementation plan submission, establishes a budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.

(d) The provisions of ~~OAR 340-020-0710 through 340-020-1070~~ this division apply to maintenance areas for 20 years from the date EPA approves the area's request under section 107(d) of the CAA for redesignation to attainment, unless the

Applicable implementation plan specifies that the provisions of ~~OAR 340-020-0710 through 340-020-1070~~ this division shall apply for more than 20 years.

(3) Limitations.

(a) Projects subject to this regulation for which the NEPA process and a conformity determination have been completed by DOT may proceed toward implementation without further conformity determinations unless more than three years have elapsed since the most recent major step (NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates) occurred. All phases of such projects which were considered in the conformity determination are also included, if those phases were for the purpose of funding final design, right-of-way acquisition, construction, or any combination of these phases.

(b) A new conformity determination for the project will be required if there is a significant change in project design concept and scope, if a supplemental environmental document for air quality purposes is initiated, or if three years have elapsed since the most recent major step to advance the project occurred.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0730.

340-020-0720~~252-0030~~

Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division. Terms used but not defined in this rule shall have the meaning given them by the CAA, titles 23 and 49 U.S.C., other Environmental Protection Agency regulations, or other DOT regulations, in that order of priority.

(1) "Applicable implementation plan" is defined in section 302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 110, or promulgated under section 110(c), or promulgated or approved pursuant to regulations promulgated under section 301(d) and which implements the relevant requirements of the CAA.

(2) "CAA" means the Clean Air Act, as amended (42 U.S.C. 7401 et seq.).

(3) "Cause or contribute to a new violation" for a project means:

(a) To cause or contribute to a new violation of a standard in the area substantially affected by the project or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented; or

(b) To contribute to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area.

(4) "Clean data" means air quality monitoring data determined by EPA to meet the requirements of 40 CFR part 58 that indicate attainment of the national ambient air quality standard.

(5) "Consult" or "consultation" means that the party or parties responsible for consultation as established in OAR ~~340-020-0760~~252-0060 shall provide all appropriate information necessary to making a conformity determination and, prior to making a conformity determination, except with respect to a transportation plan or TIP revision which merely adds or deletes exempt projects listed in OAR ~~340-020-1050~~252-0270, consider the views of such parties and provide a timely, written response to those views. Such views and written responses shall be included in the record of decision or action.

(6) "Control strategy implementation plan" or "control strategy implementation plan revision" is the applicable implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment (CAA §§ 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§ 192(a) and 192(b), for nitrogen dioxide).

(7) "DEQ" means the Department of Environmental Quality.

(8) "Design concept" means the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade separated highway, reserved right-of-way rail transit, mixed traffic rail transit, exclusive busway, etc.

(9) "Design scope" means the design aspects of a facility which will affect the proposed facility's impact on regional emissions, usually as they relate to vehicle or person carrying capacity and control, e.g., number of lanes or tracks to be constructed or added, length of project, signalization, access control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.

(10) "DOT" means the United States Department of Transportation.

(11) "EPA" means the Environmental Protection Agency.

(12) "FHWA" means the Federal Highway Administration of DOT.

(13) "FHWA/FTA project" for the purpose of ~~OAR 340-020-0710 through 340-020-1070~~ this division, is any highway or transit project which is proposed to receive funding assistance and approval through the Federal-Aid Highway program or the Federal mass transit program, or requires Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system.

(14) "FTA" means the Federal Transit Administration of DOT.

(15) "Forecast period" with respect to a transportation plan is the period covered by the transportation plan pursuant to **23 CFR Part 450**.

(16) "Highway project" is an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it must be defined sufficiently to:

(a) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;

(b) Have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and

(c) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

(17) "Horizon year" is a year for which the transportation plan describes the envisioned transportation system in accordance with ~~OAR 340-020-0770~~ 252-0070.

(18) "Hot-spot analysis" is an estimation of likely future localized CO and PM₁₀ pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Hot-Spot Analysis assesses impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, and uses an air quality dispersion model to determine the effects of emissions on air quality.

(19) "Increase the frequency or severity" means to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

(20) "Lapse" means that the conformity determination for a transportation plan or TIP has expired, and thus there is no currently conforming transportation plan and TIP.

(21) "Lead Planning Agency" means an agency designated pursuant to section 174 of the Clean Air Act as responsible for developing an applicable implementation plan.

(22) "Maintenance area" means any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under § 175A of the CAA, as amended.

(23) "Maintenance plan" means an implementation plan adopted by the Environmental Quality Commission, endorsed by the Governor and submitted to EPA under section 175(a) of the CAA, as amended.

(24) "Maximum priority" means that all possible actions must be taken to shorten the time periods necessary to complete essential steps in TCM implementation - for example, by increasing the funding rate - even though timing of other projects may be affected. It is not permissible to have prospective discrepancies with the SIP's TCM implementation schedule due to lack of funding in the TIP, lack of commitment to the project by the sponsoring agency, unreasonably long periods to complete future work due to lack of staff or other agency resources, lack of approval or consent by local governmental bodies, or failure to have applied for a permit where necessary work preliminary to such application has been completed. However, where statewide and metropolitan funding resources and planning and management capabilities are fully consumed, within the flexibilities of the Intermodal Surface Transportation Efficiency Act (ISTEA), with responding to damage from natural disasters, civil unrest, or terrorist acts, TCM implementation can be determined to be timely without regard to the above, provided reasonable efforts are being made.

(25) "Metropolitan area" means any area where a metropolitan planning organization has been designated.

(26) "Metropolitan planning organization" or "MPO" is that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 5303. It is the forum for cooperative transportation decision-making.

(27) "Milestone" has the meaning given in § 182(g)(1) and § 189(c) of the CAA. A milestone consists of an emissions level and the date on which it is required to be achieved.

(28) "Motor vehicle emissions budget" is that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions.

(29) "National ambient air quality standards" or "NAAQS" are those standards established pursuant to § 109 of the CAA.

(30) "NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

(31) "NEPA process completion" with respect to FHWA or FTA, means the point at which there is a specific action to make a final determination that a project is categorically excluded, to make a Finding of No Significant Impact, or to issue a record of decision on a Final Environmental Impact Statement under NEPA.

(32) "Nonattainment area" means any geographic region of the United States which has been designated as nonattainment under § 107 of the CAA for any pollutant for which a national ambient air quality standard exists.

(33) "ODOT" means the Oregon Department of Transportation.

(34) "Policy level official" means elected officials, and management and senior staff level employees.

(35) "Project" means a highway project or transit project.

(36) "Protective finding" means a determination by EPA that a submitted control strategy implementation plan revision contains adopted control measures or written commitments to adopt enforceable control measures that fully satisfy the emissions reductions requirements relevant to the statutory provision for which the implementation plan revision was submitted, such as reasonable further progress or attainment.

(37) "Recipient of funds designated under title 23 U.S.C. or the Federal Transit Laws" means any agency at any level of State, county, city, or regional government that routinely receives title 23 U.S.C. or Federal Transit Laws funds to construct HWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners or developers, or contractors or entities that are only paid for services or products created by their own employees.

(38) "Regional air authority" means a regional air authority established pursuant to ORS 468A.105.

(39) "Regionally significant project" means a transportation project, other than an exempt project, that is on a facility which serves regional transportation needs, such as access to and from the area outside the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves, and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum:

(a) All principal arterial highways;

(b) All fixed guideway transit facilities that offer an alternative to regional highway travel; and

(c) Any other facilities determined to be regionally significant through interagency consultation pursuant to OAR 340-020-0760252-0060.

[NOTE: A project that is included in the modeling of an area's transportation network may not, subject to interagency consultation, be considered regionally significant because it is not on a facility which serves regional transportation needs.]

(40) "Safety margin" means the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment, or maintenance.

(41) "Scope" means "design scope" as defined in section (9) of this rule when the term follows "design concept and...".

(42) "Standard" means a national ambient air quality standard.

(43) "Transit" is mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services.

(44) "Transit project" is an undertaking to implement or modify a transit facility or transit-related program; purchase transit vehicles or equipment; or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules, or fares. It may consist of several phases. For analytical purposes, it must be defined inclusively enough to:

- (a) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;
- (b) Have independent utility or independent significance; i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made; and
- (c) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

(45) "Transportation control measure" or "TCM" is any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in section 108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the first sentence of this definition, vehicle technology based, fuel based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of ~~OAR 340-020-0710 through 340-020-1070~~ this division.

(46) "Transportation improvement program" or "TIP" means a staged, multiyear, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the metropolitan transportation plan, and developed pursuant to **23 CFR Part 450**.

(47) "Transportation plan" means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to **23 CFR Part 450**.

(48) "Transportation project" means a roadway project or a transit project.

(49) "VMT" means vehicle miles traveled.

(50) "Written commitment" for the purposes of ~~OAR 340-020-0710 through 340-020-1070~~ this division means a written commitment that includes a description of the action to be taken; a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body; and an acknowledgment that the commitment is an enforceable obligation under the applicable implementation plan.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under ~~OAR 340-020-0047200-0040~~.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0720.

340-020-0740252-0040

Priority

When assisting or approving any action with air quality related consequences, FHWA and FTA shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the NAAQS. This priority shall be consistent with statutory requirements for allocation of funds among States or other jurisdictions.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under ~~OAR 340-020-0047200-0040~~.]

Stat. Auth.: ORS 468A.035

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; renumbered from OAR 340-020-0740.

340-020-0750252-0050

Frequency of Conformity Determinations

(1) Conformity determinations and conformity redeterminations for transportation plans, TIPs, FHWA/FTA projects, and regionally significant projects approved or adopted by a recipient of funds under title 23 U.S.C. must be made according to the requirements of this rule and the applicable implementation plan.

(2) Frequency of conformity determinations for transportation plans.

(a) Each new transportation plan must be demonstrated to conform before the transportation plan is approved by the MPO or accepted by DOT. Each new transportation plan must be demonstrated to conform in accordance with the consultation requirements in ~~OAR 340-020-0760252-0060~~.

(b) All transportation plan revisions must be found to conform before the transportation plan revisions are approved by an MPO or accepted by DOT, unless the revision merely adds or deletes exempt projects listed in ~~OAR 340-020-1050252-0270~~. The conformity determination must be based on the transportation plan and the revision taken as a whole, and must be made in accordance with the consultation provisions of ~~OAR 340-020-0760252-0060~~.

(c) The MPO and DOT must determine the conformity of the transportation plan no less frequently than every three years. If more than three years elapse after DOT's conformity determination without the MPO and DOT determining conformity of the transportation plan, the existing conformity determination will lapse.

(3) Frequency of conformity determinations for transportation improvement programs.

(a) A new TIP must be demonstrated to conform before the TIP is approved by the MPO or accepted by DOT. The new TIP must be demonstrated to conform in accordance with the consultation requirements in OAR ~~340-020-0760~~252-0060.

(b) A TIP amendment requires a new conformity determination for the entire TIP before the amendment is approved by the MPO or accepted by DOT, unless the amendment merely adds or deletes exempt projects listed in OAR ~~340-020-1050~~252-0270 or ~~340-020-1060~~252-0280. The TIP amendment must be demonstrated to conform in accordance with the consultation requirements in OAR ~~340-020-0760~~252-0060.

(c) The MPO and DOT must determine the conformity of the TIP no less frequently than every three years. If more than three years elapse after DOT's conformity determination without the MPO and DOT determining conformity of the TIP, the existing conformity determination will lapse.

(d) After an MPO adopts a new or revised transportation plan, conformity of the TIP must be redetermined by the MPO and DOT within six months from the date of DOT's conformity determination for the transportation plan, unless the new or revised plan merely adds or deletes exempt projects listed in OAR ~~340-020-1050~~252-0270 or ~~340-020-1060~~252-0280. Otherwise, the existing conformity determination for the TIP will lapse.

(4) Projects. FHWA/FTA transportation projects must be found to conform before they are adopted, accepted, approved, or funded. In the case of recipients of funds under title 23 U.S.C. or the Federal Transit Laws, all regionally significant projects must be demonstrated to conform before they are approved or adopted. Conformity must be redetermined for any FHWA/FTA project or any regionally significant project adopted or approved by a recipient of funds under title 23 U.S.C. if three years have elapsed since the most recent major step to advance the project (NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates) occurred.

(5) Triggers for transportation plan and TIP conformity determinations. Conformity of existing transportation plans and IPS must be redetermined within 18 months of the following, or the existing conformity determination will lapse, and no new project-level conformity determinations may be made until conformity of the transportation plan and TIP has been determined by the MPO and DOT:

(a) November 24, 1993;

(b) The date of the State's initial submission to EPA of each control strategy implementation plan or maintenance plan establishing a motor vehicle emissions budget;

(c) EPA approval of a control strategy implementation plan revision or maintenance plan establishing a motor vehicle emissions budget;

(d) EPA approval of an implementation plan revision that adds, deletes, or changes TCMs; and

(e) EPA promulgation of an implementation plan which establishes or revises a motor vehicle emissions budget or adds, deletes, or changes TCMs.

(6) Additional triggers for transportation plan and TIP conformity determinations. Conformity of existing transportation plans and TIPS must be redetermined within 24 months after the EQC adopts a SIP revision which adds TCMs or the next transportation plan approval (whichever comes first) or the existing conformity determination will lapse, and no new project-level conformity determinations may be made until conformity of the transportation plan and TIP has been determined by the MPO and DOT.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0750.

~~340-020-0760~~ 252-0060

Consultation

(1) General:

(a) This section provides procedures for interagency consultation (Federal, State, and local) and resolution of conflicts. Consultation shall be undertaken by MPOs, the Oregon Department of Transportation, affected local jurisdictions, and USDOT before making conformity determinations and in developing regional transportation plans and transportation

improvement programs. Consultation shall be undertaken by a lead planning agency, the Department of Environmental Quality, the Lane Regional Air Pollution Authority (for actions in Lane County which are subject to ~~OAR 340-020-0710 through OAR 340-020-1070~~)this division, or any other regional air authority, and EPA in developing applicable implementation plans.

(b) The lead planning agency, the Department of Environmental Quality, the Lane Regional Air Pollution Authority for Lane County, or any other regional air authority, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development, amendment or revision (except administrative amendments or revisions) of an applicable implementation plan including, the motor vehicle emissions budget. The MPO, ODOT, or any other party responsible for making conformity determinations pursuant to this rule, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development of the transportation plan, the TIP, and any determinations of conformity under this rule. The project sponsor shall be responsible for assuring the conformity of FHWA/FTA projects and regionally significant projects approved or adopted by a recipient of funds under title 23.

(c) In addition to the lead agencies identified in subsection (b), other agencies entitled to participate in any interagency consultation process under ~~OAR 340-020-0760~~252-0060 include the Oregon Department of Transportation, both headquarters and each affected regional or district office, each affected MPO, the Federal Highway Administration regional office in Portland and State division office in Salem, the Federal Transit Administration regional office, the Department of Environmental Quality, both headquarters and each affected regional office, any affected regional air authority, the United States Environmental Protection Agency, both headquarters and each affected regional or district office, and any other organization within the State responsible under State law for developing, submitting or implementing transportation-related provisions of an implementation plan, any local transit agency, and any city or county transportation or air quality agency.

(d) Specific roles and responsibilities of various participants in the interagency consultation process shall be as follows:

(A) The lead planning agency, the Department of Environmental Quality, the Lane Regional Air Pollution Authority, or any other regional air authority, shall be responsible for developing:

- (i) Emissions inventories;
- (ii) Emissions budgets;
- (iii) Attainment and maintenance demonstrations;
- (iv) Control strategy implementation plan revisions; and
- (v) Updated motor vehicle emissions factors.

(B) Unless otherwise agreed to in a Memorandum of Understanding between the affected jurisdictions and the Department of Environmental Quality, the Department of Environmental Quality shall be responsible for developing the transportation control measures to be included in SIPs in PM₁₀ nonattainment or maintenance areas, except Oakridge.

(C) The Lane Regional Air Pollution Authority shall be responsible for developing transportation control measures for PM₁₀ in Oakridge.

(D) The MPO shall be responsible for:

- (i) Developing transportation plans and TIPs, and making corresponding conformity determinations;
- (ii) Making conformity determinations for the entire nonattainment or maintenance area including areas beyond the boundaries of the MPO where no agreement is in effect as required by **23 CFR § 450.310(f)**;
- (iii) Monitoring regionally significant projects;
- (iv) Developing and evaluating TCMs in ozone and/or carbon monoxide nonattainment and/or maintenance areas;
- (v) Providing technical and policy input on emissions budgets;
- (vi) Performing transportation modeling, regional emissions analyses and documenting timely implementation of TCMs as required for determining conformity;
- (vii) Distributing draft and final project environmental documents which have been prepared by the MPO to other agencies.

(E) The Oregon Department of Transportation (ODOT) shall be responsible for:

- (i) Providing technical input on proposed revisions to motor vehicle emissions factors;
- (ii) Distributing draft and final project environmental documents prepared by ODOT to other agencies;
- (iii) Convening air quality technical review meetings on specific projects when requested by other agencies or, as needed;
- (iv) Convening interagency consultation meetings required for purposes of making conformity determinations in non-metropolitan nonattainment or maintenance areas, except Grants Pass;
- (v) Making conformity determinations in non-metropolitan nonattainment or maintenance area, except Grants Pass.

(F) In addition to the responsibilities of MPOs described in paragraph (1)(d)(D) above, the Rogue Valley Council of Governments shall be responsible for:

(i) Convening interagency consultation meetings required for purposes of making conformity determinations in Grants Pass;

(ii) Making conformity determinations in Grants Pass;

(G) The project sponsor shall be responsible for;

(i) Assuring project level conformity including, where required by this rule, localized air quality analysis;

(ii) Distributing draft and final project environmental documents prepared by the project sponsor to other agencies;

(H) FHWA and FTA shall be responsible for assuring timely action on final findings of conformity, after consultation with other agencies as provided in this section and **40 CFR § 93.105**.

(I) EPA shall be responsible for:

(i) Reviewing and approving updated motor vehicle emissions factors; and

(ii) Providing guidance on conformity criteria and procedures to agencies in interagency consultation.

(J) Any agency, by mutual agreement with another agency, may take on a role or responsibility assigned to that other agency under this rule.

(K) In metropolitan areas, any state or local transportation agency, or transit agency shall disclose regionally significant projects to the MPO standing committee established under OAR 340-~~020-0760~~252-0060(2)(b) in a timely manner.

(i) Such disclosure shall be made not later than the first occasion on which any of the following actions is sought: adoption or amendment of a local jurisdiction's transportation system plan to include a proposed project, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract for final design or construction of the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with final design, permitting or construction of the project, or any approval needed for any facility that is dependent on the completion of the regionally significant project.

(ii) To help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose to the MPO annually on or before July 1.

(iii) In the case of any regionally significant project that has not been disclosed to the MPO and other interested agencies participating in the consultation process in a timely manner, such regionally significant project shall be deemed not to be included in the regional emissions analysis supporting the currently conforming TIP's conformity determination and not to be consistent with the motor vehicle emissions budget in the applicable implementation plan, for the purposes of OAR 340-~~020-1000~~252-0220.

(L) In non-metropolitan areas, except Grants Pass, any state or local transportation agency, or transit agency shall disclose regionally significant projects to ODOT in a timely manner.

(i) Such disclosure shall be made not later than the first occasion on which any of the following actions is sought: adoption or amendment of a local jurisdiction's transportation system plan to include a proposed project, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract for final design or construction of the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with final design, permitting or construction of the project, or any approval needed for any facility that is dependent on the completion of the regionally significant project.

(ii) To help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose to ODOT as requested. Requests for disclosure shall be made in writing to any affected state or local transportation or transit agency.

(M) In Grants Pass, any state or local transportation agency, or transit agency shall disclose regionally significant projects to RVCOG in a timely manner.

(i) Such disclosure shall be made not later than the first occasion on which any of the following actions is sought: adoption or amendment of a local jurisdiction's transportation system plan to include a proposed project, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract for final design or construction of the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with final design, permitting or construction of the project, or any approval needed for any facility that is dependent on the completion of the regionally significant project.

(ii) To help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose to RVCOG as requested. Requests for disclosure shall be made in writing to any affected state or local transportation or transit agency.

(2) Interagency consultation: specific processes.

(a) State Implementation Plan development.

(A) It shall be the affirmative responsibility of the agency with the responsibility for preparing or revising a State Implementation Plan, except for administrative amendments or revisions, to initiate the consultation process by notifying other participants and convening a working group made up of representatives of each affected agency in the consultation process including representatives of the public, as appropriate. Such working group shall be chaired by a representative of the convening agency, unless the group by consensus selects another chair. The working group shall make decisions by majority vote. Such working group shall begin consultation meetings early in the process of decision on the final SIP, and shall prepare all drafts of the final SIP, the emissions budget, and major supporting documents, or appoint the representatives or agencies that will prepare such drafts. Such working group shall be made up of policy level officials, and shall be assisted by such technical committees or technical engineering, planning, public works, air quality, and administrative staff from the member agencies as the working group deems appropriate. The chair, or his/her designee, shall set the agenda for meetings and assure that all relevant documents and information are supplied to all participants in the consultation process in a timely manner.

(B) Regular consultation on development or amendment of an implementation plan shall include meetings of the working group at regularly scheduled intervals, no less frequently than quarterly. In addition, technical meetings shall be convened as necessary.

(C) Each lead agency with the responsibility for preparing the SIP subject to the interagency consultation process, shall confer through the working group process with all other agencies identified under subsection (1)(c) of this rule with an interest in the document to be developed, provide all appropriate information to those agencies needed for meaningful input, and, consider the views of each such agency and respond to substantive comments in a timely, substantive written manner prior to making a recommendation to the Environmental Quality Commission for a final decision on such document. Such views and written response shall be made part of the record of any decision or action.

(D) The working group may appoint subcommittees to address specific issues pertaining to SIP development. Any recommendations of a subcommittee shall be considered by the working group.

(E) Meetings of the working group shall be open to the public. The agency with the responsibility of preparing the SIP shall provide timely written notification of working group meetings to those members of the public who have requested such notification. In addition, reasonable efforts shall be made to identify and provide timely written notification to interested parties.

(b) Metropolitan Areas. There shall be a standing committee for purposes of consultation required under this rule by an MPO. The standing committee shall advise the MPO. The committee shall include representatives from state and regional air quality planning agencies and State and local transportation and transit agencies. The standing committee shall consult with EPA and USDOT. If not designated by committee bylaws, the standing committee shall select its chair by majority vote.

(A) For MPOs designated prior to the effective date of this rule, the following standing committees are designated for purposes of interagency consultation required by this rule:

- (i) Lane Council of Governments: Transportation Planning Committee;
- (ii) Salem-Keizer Area Transportation Study: Technical Advisory Committee;
- (iii) Metro: Transportation Policy Alternatives Committee;
- (iv) Rogue Valley Council of Governments: Technical Advisory Committee.

(B) Any MPO designated subsequent to the effective date of this rule shall establish a standing committee to meet the requirements of this rule.

(C) The standing committee shall hold meetings at least quarterly. The standing committee shall make decisions by majority vote.

(D) The standing committee shall be responsible for consultation on:

(i) Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis, in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel;

(ii) Determining whether a project's design concept and scope have changed significantly since the plan and TIP conformity determination;

(iii) Evaluating whether projects otherwise exempted from meeting the requirements of this rule should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason;

(iv) Making a determination, as required by OAR 340-020-0840252-0140(3)(a), whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs; this consultation process shall also consider whether delays in TCM implementation

ecessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

(v) Identifying, as required by OAR ~~340-020-1020~~252-0240(4) projects located at sites in PM₁₀ nonattainment or maintenance areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM₁₀ hot-spot analysis;

(vi) Forecasting vehicle miles traveled, and any amendments thereto;

(vii) Making a determination, as required by OAR ~~340-020-1000~~252-0220(2), whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, and whether the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility;

(viii) Determining whether the project sponsor or MPO has demonstrated that the requirements of OAR ~~340-020-0870~~252-0170, ~~340-020-0890~~252-0190, and ~~340-020-0900~~252-0200 are satisfied without a particular mitigation or control measure, as provided in OAR ~~340-020-1040~~252-0260(4);

(ix) Evaluating events which will trigger new conformity determinations in addition to those triggering events established in OAR ~~340-020-0750~~252-0050;

(x) Consulting on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment or maintenance areas or air basins;

(xi) Assuring that plans for construction of regionally significant projects which are not FHWA/FTA projects, including projects for which alternative locations, design concept and scope, or the no-build option are still being considered, are disclosed to the MPO on a regular basis, and assuring that any changes to those plans are immediately disclosed;

(xii) The design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g., household/travel transportation surveys);

(xiii) Development of transportation improvement programs;

(xiv) Development of regional transportation plans;

(xv) Establishing appropriate public participation opportunities for project-level conformity determinations required by OAR ~~340-020-0710 through 340-020-1070~~this division, in the manner specified by 23 CFR Part 450; and

(xvi) Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in OAR ~~340-020-1050~~252-0270 or ~~340-020-1060~~252-0280.

(E) The chair of each standing committee, or his/her designee, shall set the agenda for all meetings. The chair of each standing committee shall assure that all agendas, and relevant documents and information are supplied to all participants in the consultation process in a timely manner prior to standing committee meetings which address any issues described in paragraph (2)(b)(D) of this rule.

(F) Such standing committees shall begin consultation meetings early in the process of decision on the final document, and shall review all drafts of the final document and major supporting documents. The standing committee shall consult with EPA and USDOT.

(G) The MPO shall confer with the standing committee and shall consult with all other agencies identified under subsection (1)(c) of this rule with an interest in the document to be developed, shall provide all appropriate information to those agencies needed for meaningful input, and consider the views of each such agency. The MPO shall provide draft conformity determinations to standing committee members and shall allow a minimum of 30 days for standing committee members to comment. The 30 day comment period for standing committee members may occur concurrently with the public comment period. The MPO shall respond to substantive comments raised by a standing committee member in a timely, substantive written manner at least 7 days prior to any final decision by the MPO on such document. Such views and written response shall be made part of the record of any decision or action.

(H) The standing committee may, where appropriate, appoint a subcommittee to develop recommendations for consideration by the full committee.

(I) Meetings of the standing committee shall be open to the public. The MPO shall provide timely written notification of standing committee meetings to those members of the public who have requested such notification. In addition, reasonable efforts shall be made to identify and provide timely written notification to interested parties.

(c) An MPO, or any other party responsible for developing Transportation Control Measures, shall consult with affected parties listed in subsection (1)(c) in developing TCMs for inclusion in an applicable implementation plan.

(d) Non-metropolitan areas.

(A) In non-metropolitan areas the following interagency consultation procedures shall apply, unless otherwise agreed to by the affected parties in an Memorandum of Understanding, or specified in an applicable implementation plan:

(B) In each non-metropolitan nonattainment or maintenance area, except in Grants Pass, the Oregon Department of Transportation shall facilitate a meeting of the affected agencies listed in subsection (1)(c) of this rule prior to making conformity determinations to:

- (i) determine which minor arterials or other transportation projects shall be considered "regionally significant";
- (ii) determine which projects have undergone significant changes in design concept and scope since the regional emissions analysis was performed;
- (iii) evaluate whether projects otherwise exempted from meeting the requirements of this rule should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason,
- (iv) make a determination, as required by OAR 340-~~020-0840~~252-0140(3)(a), whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs; this consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;
- (v) Identify, as required by OAR 340-~~020-1020~~252-0240(4) projects located at sites in PM₁₀ nonattainment or maintenance areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM₁₀ hot-spot analysis;
- (vi) Confer on the forecast of vehicle miles traveled, and any amendments thereto;
- (vii) Determine whether the project sponsor has demonstrated that the requirements of OAR 340-~~020-0870~~252-0170, 340-~~020-0890~~252-0190, and 340-~~020-0900~~252-0200 are satisfied without a particular mitigation or control measure, as provided in OAR 340-~~020-1040~~252-0260(d);
- (viii) Evaluate events which will trigger new conformity determinations in addition to those triggering events established in OAR 340-~~020-0750~~252-0050;
- (ix) Assure that plans for construction of regionally significant projects which are not FHWA/FTA projects, including projects for which alternative locations, design concept and scope, or the no-build option are still being considered, are disclosed on a regular basis, and assuring that any changes to those plans are immediately disclosed.
- (x) Confer on the design, schedule, and funding of research and data collection efforts and transportation model development (e.g., household/travel transportation surveys).
- (xi) Establish appropriate public participation opportunities for project-level conformity determinations required by this rule in the manner specified by 23 CFR Part 450;
- (xii) Provide notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in OAR 340-~~020-1050~~252-0270 or 340-~~020-1060~~252-0280; and
- (xiii) Choose conformity tests and methodologies for non-metropolitan nonattainment and maintenance areas, as required by OAR 340-~~020-0800~~252-0100(7)(b)(C).

(C) Notwithstanding paragraph (2)(d)(B) of this rule, the Rogue Valley Council of Governments shall be responsible for facilitating a meeting of the affected agencies listed in subsection (1)(c) of this rule prior to making conformity determinations for Grants Pass, Oregon for the purpose of consulting on the items listed in paragraph (2)(d)(B) of this rule.

(D) The Oregon Department of Transportation, or the Rogue Valley Council of Governments (RVCOG) in Grants Pass, shall consult with all other agencies identified under subsection (1)(c) of this rule with an interest in the document to be developed, shall provide all appropriate information to those agencies needed for meaningful input, and consider the views of each such agency. All draft regional conformity determinations as well as, supporting documentation shall be made available to agencies with an interest in the document and those agencies shall be given at least 30 days to submit comments on the draft document. ODOT, or RVCOG in Grants Pass, shall respond to substantive comments received from other agencies in a timely, substantive written manner at least 7 days prior to any final decision on such document. Such views and written response shall be made part of the record of any decision or action.

(E) Meetings hereby required shall be open to the public. Timely written notification of any meetings relating to conformity shall be provided to those members of the public who have requested such notification. In addition, reasonable efforts shall be made to identify and provide timely written notification to interested parties.

(F) If no transportation projects are proposed for the upcoming fiscal year, there is no obligation to facilitate the annual meeting required by paragraphs (2)(d)(B) & (C) of this rule.

(G) The meetings required by paragraphs (2)(d)(B)&(C) of this rule may take place using telecommunications equipment, where appropriate.

(e) An MPO or ODOT shall facilitate an annual statewide meeting, unless otherwise agreed upon by ODOT, DEQ and the MPOs, of the affected agencies listed in subsection (1)(c) to review procedures for regional emissions and hot-spot modeling.

(A) The members of each agency shall annually jointly review the procedures used by affected MPOs and agencies to determine that the requirements of OAR ~~340-020-1010~~252-0230 are being met by the appropriate agency.

(B) An MPO or ODOT shall facilitate a statewide meeting of parties listed in subsection (1)(c) of this rule to receive comment on the EPA guidelines on hot-spot modeling, to determine the adequacy of the guidelines, and to make recommendations for improved hot-spot modeling to the EPA Regional Administrator. DEQ, LRAPA, or any other regional air authority, may make recommendations for improved hot-spot modeling guidelines to the EPA Regional Administrator with the concurrence of ODOT. ODOT may make recommendations for improved hot-spot modeling guidelines to the EPA Regional Administrator with the concurrence of the affected air quality agency (e.g., DEQ, LRAPA or any other regional air authority).

(C) The MPO or ODOT shall determine whether the transportation modeling procedures are in compliance with the modeling requirements of OAR ~~340-020-1010~~252-0230. The DEQ or LRAPA (in Lane County), or any other regional air authority, shall determine whether the modeling procedures are in compliance with the air quality emissions modeling requirements of OAR ~~340-020-1010~~252-0230.

(D) The affected agencies shall evaluate and choose a model (or models) and associated methods and assumptions to be used in Hot-Spot Analyses and regional emissions analyses.

(f) FHWA and FTA will, for any proposed or anticipated transportation improvement program (TIP) or transportation plan conformity determination, provide a draft conformity determination to EPA for review and comment. FHWA and FTA shall allow a minimum of 14 days for EPA to respond. DOT shall respond in writing to any significant comments raised by EPA before making a final decision. In addition, where FHWA/FTA request any new or revised information to support a TIP or transportation plan conformity determination, FHWA/FTA shall either return the conformity determination for additional consultation under subsections (2)(b) or (2)(d) of this rule, or FHWA/FTA shall provide the new information to the agencies listed in subsection (1)(c) of this rule for review and comment. Where FHWA/FTA chooses to provide the new or additional information to the affected agencies listed in subsection (1)(c), FHWA and FTA shall allow for a minimum of 14 days to respond to any new or revised supporting information; DOT shall respond in writing to any significant comments raised by the agencies consulted on the new or revised supporting information before making a final decision.

(g) Each agency subject to an interagency consultation process under this rule (including any Federal agency) shall provide each final document that is the product of such consultation process, together with all supporting information that has not been the subject of any previous consultation required by this rule, to each other agency that has participated in the consultation process within 14 days of adopting or approving such document or making such determination. Any such agency may supply a checklist of available supporting information, which such other participating agencies may use to request all or part of such supporting information, in lieu of generally distributing all supporting information.

(h) It shall be the affirmative responsibility of the agency with the responsibility for preparing a transportation plan or TIP revision which merely adds or deletes exempt projects listed in OAR ~~340-020-1050~~252-0270 to initiate the process by notifying other participants early in the process of decision on the final document and assure that all relevant documents and information are supplied to all participants in the consultation process in a timely manner.

(i) A meeting that is scheduled or required for another purpose may be used for the purposes of consultation required by this rule if the conformity consultation purpose is identified in the public notice for the meeting.

(j) It shall be the affirmative responsibility of a project sponsor to consult with the affected transportation and air quality agencies prior to making a project level conformity determination required by this rule.

(3) Resolving conflicts.

(a) Any conflict among State agencies or between State agencies and an MPO shall be escalated to the Governor if the conflict cannot be resolved by the heads of the involved agencies. In the first instance, such agencies shall make every effort to resolve any differences, including personal meetings between the heads of such agencies or their policy-level representatives, to the extent possible.

(b) A State agency, regional air authority, or MPO has 14 calendar days to appeal a determination of conformity, SIP submittal, or other decision under OAR ~~340-020-0710 through 340-20-1070~~this division, to the Governor after the State agency, regional air authority, or MPO has been notified of the resolution of all comments on such proposed determination of conformity, SIP submittal, or decision. If an appeal is made to the Governor, the final conformity determination, SIP

submission, or policy decision must have the concurrence of the Governor. The appealing agency must provide notice of any appeal under this subsection to the lead agency. If an action is not appealed to the Governor within 14 days, the lead agency may proceed.

(c) The Governor may delegate the role of hearing any such appeal under this section and of deciding whether to concur in the conformity determination to another official or agency within the State, but not to the head or staff of the State air quality agency or any local air quality agency, the State department of transportation, a State transportation commission or board, the Environmental Quality Commission, any agency that has responsibility for only one of these functions, or an MPO.

(4) Public consultation procedures. Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with these requirements and those of 23 CFR 450.316(b). Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.95. In addition, these agencies must specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0760.

340-020-0770252-0070

Content of Transportation Plans

(1) Transportation plans adopted after January 1, 1997 in serious, severe, or extreme ozone nonattainment areas and in serious carbon monoxide nonattainment areas. If the metropolitan planning area contains an urbanized area population greater than 200,000, the transportation plan must specifically describe the transportation system envisioned for certain future years which shall be called horizon years.

(a) The agency or organization developing the transportation plan, after consultation pursuant to OAR ~~340-020-0760~~252-0060, may choose any years to be horizon years, subject to the following restrictions:

(A) Horizon years may be no more than 10 years apart;

(B) The first horizon year may be no more than 10 years from the base year used to validate the transportation demand planning model;

(C) If the attainment year is in the time span of the transportation plan, the attainment year must be a horizon year;

(D) The last horizon year must be the last year of the transportation plan's forecast period.

(b) For these horizon years:

(A) The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land use forecasts, in accordance with implementation plan provisions and OAR ~~340-020-0760~~252-0060;

(B) The highway and transit system shall be described in terms of the regionally significant additions or modifications to the existing transportation network which the transportation plan envisions to be operational in the horizon years. Additions and modifications to the highway network shall be sufficiently identified to indicate intersections with existing regionally significant facilities, and to determine their effect on route options between transportation analysis zones. Each added or modified highway segment shall also be sufficiently identified in terms of its design concept and design scope to allow modeling of travel times under various traffic volumes, consistent with the modeling methods for area-wide transportation analysis in use by the MPO. Transit facilities, equipment, and services envisioned for the future shall be identified in terms of design concept, design scope, and operating policies that are sufficient for modeling of their transit ridership. Additions and modifications to the transportation network shall be described sufficiently to show that there is a reasonable relationship between expected land use and the envisioned transportation system; and

(C) Other future transportation policies, requirements, services, and activities, including intermodal activities, shall be described.

(2) Moderate areas reclassified to serious. Ozone or CO nonattainment areas which are reclassified from moderate to serious and have an urbanized population greater than 200,000 must meet the requirements of subsection (1)(a) of this rule within two years from the date of reclassification.

(3) Transportation plans for other areas. Transportation plans for other areas must meet the requirements of subsection (a) of this section at least to the extent it has been the previous practice of the MPO to prepare plans which meet those requirements. Otherwise, the transportation system envisioned for the future must be sufficiently described within the transportation plans so that a conformity determination can be made according to the criteria and procedures of OAR 340-020-0800252-0100 through 340-020-0900252-0200.

(4) Savings. The requirements of this section supplement other requirements of applicable law or regulation governing the format or content of transportation plans.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0770.

340-020-0780252-0080

Relationship of Transportation Plan and TIP Conformity with the NEPA Process

The degree of specificity required in the transportation plan and the specific travel network assumed for air quality modeling do not preclude the consideration of alternatives in the NEPA process or other project development studies. Should the NEPA process result in a project with design concept and scope significantly different from that in the transportation plan or TIP, the project must meet the criteria in OAR 340-020-0800252-0100 through 340-020-0900252-0200 for projects not from a TIP before NEPA process completion.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0780.

340-020-0790252-0090

Fiscal Constraints for Transportation Plans and TIPs

Transportation plans and TIPs must be fiscally constrained consistent with DOT's metropolitan planning regulations at **23 CFR Part 450** in order to be found in conformity.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0790.

340-020-0800252-0100

Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General

(1) In order for each transportation plan, program, FHWA/FTA project, and regionally significant project approved or adopted by a recipient of funds under title 23 U.S.C. to be found to conform, the MPO and DOT must demonstrate that the applicable criteria and procedures in ~~OAR 340-020-0710 through 1070~~ this division are satisfied, and the MPO and DOT must comply with all applicable conformity requirements of implementation plans, and of court orders for the area which pertain specifically to conformity. The criteria for making conformity determinations differ based on the action under review (transportation plans, TIPS, and FHWA/FTA projects), the relevant pollutant(s), and the status of the implementation plan.

(2) Table 1 indicates the criteria and procedures in OAR 340-020-0810252-0110 through 340-020-0900252-0200 which apply for transportation plans, TIPs, and FHWA/FTA projects. Sections (3) through (6) of this rule explain when the budget, emission reduction, and hot spot tests are required for each pollutant. Section (7) of this rule addresses isolated rural nonattainment and maintenance areas. Table 1 follows:

Table 1.--Conformity Criteria

All Actions at all times:

OAR 340-~~020-0810~~252-0110 Latest planning assumptions.
OAR 340-~~020-0820~~252-0120 Latest emissions model.
OAR 340-~~020-0830~~252-0130 Consultation.

Transportation Plan:

OAR 340-~~020-0840~~252-0140(2) TCMs.
OAR 340-~~020-0890~~252-0190 or ~~0900~~OAR 252-0200 Emissions budget or Emission reduction.

TIP:

OAR 340-~~020-0840~~252-0140(3) TCMs.
OAR 340-~~020-0890~~252-0190 or ~~0900~~OAR 252-0200 Emissions budget or Emission reduction.

Project (From a Conforming Plan and TIP):

OAR 340-~~020-0850~~252-0150 Currently conforming plan and TIP.
OAR 340-~~020-0860~~252-0160 Project from a conforming plan and TIP.
OAR 340-~~020-0870~~252-0170 CO and PM10 hot spots.
OAR 340-~~020-0880~~252-0180 PM10 control measures.

Project (Not From a Conforming Plan and TIP):

OAR 340-~~020-0840~~252-0140 TCMs.
OAR 340-~~020-0850~~252-0150 Currently conforming plan and TIP.
OAR 340-~~020-0870~~252-0170 CO and PM10 hot spots.
OAR 340-~~020-0880~~252-0180 PM10 control measures.
OAR 340-~~020-0890~~252-0190 Emissions budget or Emission reduction.

(3) Ozone nonattainment and maintenance areas. In addition to the criteria listed in Table 1 in section (2) of this rule that are required to be satisfied at all times, in ozone nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or emission reduction tests are satisfied as described in the following:

(a) In ozone nonattainment and maintenance areas the budget test must be satisfied as required by OAR 340-~~020-0890~~252-0190 for conformity determinations made:

(A) 45 days after a control strategy implementation plan revision or maintenance plan has been submitted to EPA, unless EPA has declared the motor vehicle emissions budget inadequate for transportation conformity purposes; or

(B) After EPA has declared that the motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes.

(b) In ozone nonattainment areas that are required to submit a control strategy implementation plan revision (usually moderate and above areas), the emission reduction tests must be satisfied as required by OAR 340-~~020-0900~~252-0200 for conformity determinations made:

(A) During the first 45 days after a control strategy implementation plan revision or maintenance plan has been submitted to EPA, unless EPA has declared a motor vehicle emissions budget adequate for transportation conformity purposes; or

(B) If EPA has declared the motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan inadequate for transportation conformity purposes, and there is no previously established motor vehicle emissions budget in the approved implementation plan or a previously submitted control strategy implementation plan revision or maintenance plan.

(c) An ozone nonattainment area must satisfy the emission reduction test for NOX, as required by OAR 340-020-~~0900252-0200~~, if the implementation plan or plan submission that is applicable for the purposes of conformity determinations is a 15% plan or Phase I attainment demonstration that does not include a motor vehicle emissions budget for NOX. The implementation plan will be considered to establish a motor vehicle emissions budget for NOX if the implementation plan or plan submission contains an explicit NOX motor vehicle emissions budget that is intended to act as a ceiling on future NOX emissions, and the NOX motor vehicle emissions budget is a net reduction from NOX emissions levels in 1990.

(d) Ozone nonattainment areas that have not submitted a maintenance plan and that are not required to submit a control strategy implementation plan revision (usually marginal and below areas) must satisfy one of the following requirements:

(A) The emission reduction tests required by OAR 340-020-~~0900252-0200~~; or

(B) The State shall submit to EPA an implementation plan revision that contains motor vehicle emissions budget(s) and an attainment demonstration, and the budget test required by OAR 340-020-~~0890252-0190~~ must be satisfied using the submitted motor vehicle emissions budget(s) (as described in subsection (3)(a) of this rule).

(e) Notwithstanding subsections (3)(a) and (3)(b) of this rule, moderate and above ozone nonattainment areas with three years of clean data that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act reasonable further progress and attainment demonstration requirements must satisfy one of the following requirements:

(A) The emission reduction tests as required by OAR 340-020-~~0900252-0200~~;

(B) The budget test as required by OAR 340-020-~~0890252-0190~~, using the motor vehicle emissions budgets in the submitted control strategy implementation plan (subject to the timing requirements of subsection (3)(a) of this rule); or

(C) The budget test as required by OAR 340-020-~~0890252-0190~~, using the motor vehicle emissions of ozone precursors in the most recent year of clean data as motor vehicle emissions budgets, if such budgets are established by the EPA rulemaking that determines that the area has clean data.

(4) CO nonattainment and maintenance areas. In addition to the criteria listed in Table 1 in section (2) of this rule that are required to be satisfied at all times, in CO nonattainment and maintenance areas conformity determinations must include a demonstration that the hot spot, budget and/or emission reduction tests are satisfied as described in the following:

(a) Projects in CO nonattainment or maintenance areas must satisfy the hot spot test required by OAR 340-020-~~0870252-0170~~ and OAR 340-020-~~1020252-0240~~ at all times. Until a CO attainment demonstration or maintenance plan is approved by EPA, FHWA/FTA projects must also satisfy the hot spot test required by OAR 340-020-~~0870252-0170~~(2).

(b) In CO nonattainment and maintenance areas the budget test must be satisfied as required by OAR 340-020-~~0890252-0190~~ for conformity determinations made:

(A) 45 days after a control strategy implementation plan revision or maintenance plan has been submitted to EPA, unless EPA has declared the motor vehicle emissions budget inadequate for transportation conformity purposes; or

(B) After EPA has declared that the motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes.

(c) Except as provided in subsection (4)(d) of this rule, in CO nonattainment areas the emission reduction tests must be satisfied as required by OAR 340-020-~~0900252-0200~~ for conformity determinations made:

(A) During the first 45 days after a control strategy implementation plan revision or maintenance plan has been submitted to EPA, unless EPA has declared a motor vehicle emissions budget adequate for transportation conformity purposes; or

(B) If EPA has declared the motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan inadequate for transportation conformity purposes, and there is no previously established motor vehicle emissions budget in the approved implementation plan or a previously submitted control strategy implementation plan revision or maintenance plan.

(d) CO nonattainment areas that have not submitted a maintenance plan and that are not required to submit an attainment demonstration (e.g., moderate CO areas with a design value of 12.7 ppm or less or not classified CO areas) must satisfy one of the following requirements:

(A) The emission reduction tests required by OAR 340-020-~~0900252-0200~~; or

(B) The State shall submit to EPA an implementation plan revision that contains motor vehicle emissions budget(s) and an attainment demonstration, and the budget test required by OAR 340-020-~~0890252-0190~~ must be satisfied using the submitted motor vehicle emissions budget(s) (as described in subsection (4)(b) or this rule).

(5) PM10 nonattainment and maintenance areas. In addition to the criteria listed in Table 1 in section (2) of this rule that are required to be satisfied at all times, in PM10 nonattainment and maintenance areas conformity determinations must include a demonstration that the hot spot, budget and/or emission reduction tests are satisfied as described in the following:

(a) Projects in PM10 nonattainment or maintenance areas must satisfy the hot spot test required by OAR 340-020-~~0870252-0170~~ and OAR 340-020-~~1020252-0240~~.

(b) In PM10 nonattainment and maintenance areas the budget test must be satisfied as required by OAR 340-020-~~0890252-0190~~ for conformity determinations made:

(A) 45 days after a control strategy implementation plan revision or maintenance plan has been submitted to EPA, unless EPA has declared the motor vehicle emissions budget inadequate for transportation conformity purposes; or

(B) After EPA has declared that the motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes.

(c) In PM10 nonattainment areas the emission reduction tests must be satisfied as required by OAR 340-020-~~0900252-0200~~ for conformity determinations made:

(A) During the first 45 days after a control strategy implementation plan revision or maintenance plan has been submitted to EPA, unless EPA has declared a motor vehicle emissions budget adequate for transportation conformity purposes;

(B) If EPA has declared the motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan inadequate for transportation conformity purposes, and there is no previously established motor vehicle emissions budget in the approved implementation plan or a previously submitted control strategy implementation plan revision or maintenance plan; or

(C) If the submitted implementation plan revision is a demonstration of impracticability under CAA section 189(a)(1)(B)(ii) and does not demonstrate attainment.

(6) NO2 nonattainment and maintenance areas. In addition to the criteria listed in Table 1 in section (2) of this rule that are required to be satisfied at all times, in NO2 nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or emission reduction tests are satisfied as described in the following:

(a) In NO2 nonattainment and maintenance areas the budget test must be satisfied as required by OAR 340-020-~~0890252-0190~~ for conformity determinations made:

(A) 45 days after a control strategy implementation plan revision or maintenance plan has been submitted to EPA, unless EPA has declared the motor vehicle emissions budget inadequate for transportation conformity purposes; or

(B) After EPA has declared that the motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes.

(b) In NO2 nonattainment areas the emission reduction tests must be satisfied as required by OAR 340-020-~~0900252-0200~~ for conformity determinations made:

(A) During the first 45 days after a control strategy implementation plan revision or maintenance plan has been submitted to EPA, unless EPA has declared a motor vehicle emissions budget adequate for transportation conformity purposes; or

(B) If EPA has declared the motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan inadequate for transportation conformity purposes, and there is no previously established motor vehicle emissions budget in the approved implementation plan or a previously submitted control strategy implementation plan revision or maintenance plan.

(7) Non-metropolitan nonattainment and maintenance areas. This section applies to any nonattainment or maintenance area (or portion thereof) which does not have a metropolitan transportation plan or TIP and whose projects are not part of the emissions analysis of any MPO's metropolitan transportation plan or TIP. This paragraph does not apply to "donut" areas which are outside the metropolitan planning boundary and inside the nonattainment/maintenance area boundary.

(a) FHWA/FTA projects in all non-metropolitan nonattainment and maintenance areas must satisfy the requirements of OAR 340-020-~~0810252-0110~~ through 340-020-~~0830252-0130~~, OAR 340-020-~~0840252-0140~~(4), and OAR 340-020-~~0870252-0170~~ through 340-020-~~0880252-0180~~. Until EPA approves the control strategy implementation plan or maintenance plan for a rural CO nonattainment or maintenance area, FHWA/FTA projects must also satisfy the requirements of OAR 340-020-~~0870252-0170~~(2) ("Localized CO and PM10 violations (hot spots)").

(b) Non-metropolitan nonattainment and maintenance areas are subject to the budget and/or emission reduction tests as described in OAR 340-020-~~0800252-0100~~(3) through 340-020-~~0800250-0100~~(6), with the following modifications:

(A) When the requirements OAR 340-020-~~0890252-0190~~ and 340-020-~~0900252-0200~~ apply to non-metropolitan nonattainment and maintenance areas, references to "transportation plan" or "TIP" should be taken to mean those projects in the statewide transportation plan or statewide TIP which are in the non-metropolitan nonattainment or maintenance area.

(B) In non-metropolitan nonattainment and maintenance areas that are subject to OAR 340-020-~~0890252-0190~~, FHWA/FTA projects must be consistent with motor vehicle emissions budget(s) for the years in the timeframe of the

attainment demonstration or maintenance plan. For years after the attainment year (if a maintenance plan has not been submitted) or after the last year of the maintenance plan, FHWA/FTA projects must satisfy one of the following requirements:

(i) OAR ~~340-020-0890~~252-0190;

(ii) OAR ~~340-020-0900~~252-0200 (including regional emissions analysis for NOX in all ozone nonattainment and maintenance areas, notwithstanding OAR ~~340-020-0900~~252-0200(4)(b)); or

(iii) As demonstrated by the air quality dispersion model or other air quality modeling technique used in the attainment demonstration or maintenance plan, the FHWA/FTA project, in combination with all other regionally significant projects expected in the area in the timeframe of the statewide transportation plan, must not cause or contribute to a new violation of any standard in any areas; increase the frequency or severity of any existing violation of any standard in any area; or delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. Control measures assumed in the analysis must be enforceable.

(C) The choice of requirements in paragraph (7)(b)(B) of this rule and the methodology used to meet the requirements of paragraph (7)(b)(B)(iii) of this rule must be determined through the interagency consultation process required in OAR ~~340-020-0760~~252-0060(2)(d)(B)(xiii) through which the relevant recipients of title 23 U.S.C. or Federal Transit Laws funds, the local air quality agency, the State air quality agency, and the State department of transportation should reach consensus about the option and methodology selected. EPA and DOT must be consulted through this process as well. In the event of unresolved disputes, conflicts may be escalated to the Governor consistent with the procedure in OAR ~~340-020-0760~~252-0060(3), which applies for any State air agency comments on a conformity determination.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

[Table: The table referred to or incorporated by reference in this rule is available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0800.

340-020-0810~~252-0110~~

Criteria and Procedures: Latest Planning Assumptions

(1) The conformity determination, with respect to all other applicable criteria in OAR ~~340-020-0820~~252-0120 through ~~340-020-0900~~252-0200, must be based upon the most recent planning assumptions in force at the time of the conformity determination. The conformity determination must satisfy the requirements of sections (2) through (6) of this rule.

(2) Assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or other agency authorized to make such estimates and approved by the MPO. The conformity determination must also be based on the latest planning assumptions about current and future background concentrations.

(3) The conformity determination for each transportation plan and TIP must discuss how transit operating policies, including fares and service levels, and assumed transit ridership have changed since the previous conformity determination.

(4) The conformity determination must include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.

(5) The conformity determination must use the latest existing information regarding the effectiveness of the TCMs and other implementation plan measures which have already been implemented.

(6) Key assumptions shall be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by OAR ~~340-020-0760~~252-0060.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0810.

340-020-0820~~252-0120~~

Criteria and Procedures: Latest Emissions Model

(1) The conformity determination must be based on the latest emission estimation model available. This criterion applies during all periods. It is satisfied if the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in that State or area is used for the conformity analysis. Where EMFAC is

he motor vehicle emissions model used in preparing or revising the applicable implementation plan, new versions must be approved by EPA before they are used in the conformity analysis.

(2) EPA will consult with DOT to establish a grace period following the specification of any new model.

(a) The grace period will be no less than three months and no more than 24 months after notice of availability is published in the Federal Register.

(b) The length of the grace period will depend on the degree of change in the model and the scope of replanning likely to be necessary by MPOs in order to assure conformity. If the grace period will be longer than three months, EPA will announce the appropriate grace period in the Federal Register.

(3) Transportation plan and TIP conformity analyses for which the emissions analysis was begun during the grace period or before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model. Conformity determinations for projects may also be based on the previous model if the analysis was begun during the grace period or before the Federal Register notice of availability, and if the final environmental document for the project is issued no more than three years after the issuance of the draft environmental document.

[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-~~020-0047200-0040~~.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0820.

340-020-0830252-0130

Criteria and Procedures: Consultation

Conformity must be determined according to the consultation procedures in OAR 340-~~020-0760252-0060~~ and in the applicable implementation plan, and according to the public involvement procedures established in compliance with **23 CFR part 450**. Until the implementation plan revision required by **40 CFR 51.390** is fully approved by EPA, the conformity determination must be made according to OAR 340-~~020-0760252-0060~~(1)(b) and 340-~~020-0760252-0060~~(4) and the requirements of **23 CFR part 450**.

[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-~~020-0047200-0040~~.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0830.

340-020-0840252-0140

Criteria and Procedures: Timely Implementation of TCMs

(1) The transportation plan, TIP or FHWA/FTA project or regionally significant projects approved or adopted by a recipient of funds under title 23 U.S.C. which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan.

(2) For transportation plans, this criterion is satisfied if the following two conditions are met:

(a) The transportation plan, in describing the envisioned future transportation system, provides for the timely completion or implementation of all TCMs in the applicable implementation plan which are eligible for funding under title 23 U.S.C. or the Federal Transit Laws, consistent with schedules included in the applicable implementation plan. Timely implementation of TCMs which are not eligible for funding under title 23 U.S.C. or the Federal Transit Laws is required where failure to implement such measure(s) will jeopardize attainment or maintenance of a standard.

(b) Nothing in the transportation plan interferes with the implementation of any TCM in the applicable implementation plan.

(3) For TIPs, this criterion is satisfied if the following conditions are met:

(a) An examination of the specific steps and funding source(s) needed to fully implement each TCM indicates that TCMs which are eligible for funding under title 23 U.S.C. or the Federal Transit Laws are on or ahead of the schedule established in the applicable implementation plan, or, if such TCMs are behind the schedule established in the applicable implementation plan, the MPO and DOT have determined after consultation in accordance with OAR 340-~~020-0760252-0060~~ that past obstacles to implementation of the TCMs have been identified and have been or are being overcome, and that all State and local agencies with influence over approvals or funding of TCMs are giving maximum priority to approval or funding of

TCMs over other projects within their control, including projects in locations outside the nonattainment or maintenance area. Timely implementation of TCMs which are not eligible for funding under title 23 U.S.C. or the Federal Transit Laws is required where attainment or maintenance of a standard is jeopardized.

(b) If TCMs in the applicable implementation plan have previously been programmed for Federal funding but the funds have not been obligated and the TCMs are behind the schedule in the implementation plan, then the TIP cannot be found to conform if the funds intended for those TCMs are reallocated to projects in the TIP other than TCMs, or if there are no other TCMs in the TIP, if the funds are reallocated to projects in the TIP other than projects which are eligible for Federal funding intended for air quality improvement projects, e.g., the Congestion Mitigation and Air Quality Improvement Program.

(c) Nothing in the TIP may interfere with the implementation of any TCM in the applicable implementation plan.

(4) For FHWA/FTA projects and regionally significant projects approved or adopted by a recipient of funds under title 23 U.S.C. which are not from a conforming transportation plan and TIP, this criterion is satisfied if the project does not interfere with the implementation of any TCM in the applicable implementation plan.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0840.

340-020-0850252-0150

Criteria and Procedures: Currently Conforming Transportation Plan and TIP

There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.

(1) Only one conforming transportation plan or TIP may exist in an area at any time; conformity determinations of a previous transportation plan or TIP expire once the current plan or TIP is found to conform by DOT. The conformity determination on a transportation plan or TIP will also lapse if conformity is not determined according to the frequency requirements of OAR 340-020-0750252-0050.

(2) This criterion is not required to be satisfied at the time of project approval for a TCM specifically included in the applicable implementation plan, provided that all other relevant criteria of OAR 340-020-0710 through 340-020-1070 this division are satisfied.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0850.

340-020-0860252-0160

Criteria and Procedures: Projects from a Plan and TIP

(1) The project must come from a conforming plan and program. If this criterion is not satisfied, the project must satisfy all criteria in Table 1 of OAR 340-020-0800252-0100 for a project not from a conforming transportation plan and TIP. A project is considered to be from a conforming transportation plan if it meets the requirements of section (2) of this rule and from a conforming program if it meets the requirements of section (3) of this rule. Special provisions for TCMs in an applicable implementation plan are provided in section (4) of this rule.

(2) A project is considered to be from a conforming transportation plan if one of the following conditions applies:

(a) For projects which are required to be identified in the transportation plan in order to satisfy OAR 340-020-0770252-0070 ("Content of Transportation Plans"), the project is specifically included in the conforming transportation plan and the project's design concept and scope have not changed significantly from those which were described in the transportation plan, or in a manner which would significantly impact use of the facility; or

(b) For projects which are not required to be specifically identified in the transportation plan, the project is identified in the conforming transportation plan, or is consistent with the policies and purpose of the transportation plan and will not interfere with other projects specifically included in the transportation plan.

(3) A project is considered to be from a conforming program if the following conditions are met:

(a) The project is included in the conforming TIP and the design concept and scope of the project were adequate at the time of the TIP conformity determination to determine its contribution to the TIP's regional emissions, and the project design concept and scope have not changed significantly from those which were described in the TIP; and

(b) If the TIP describes a project design concept and scope which includes project-level emissions mitigation or control measures, written commitments to implement such measures must be obtained from the project sponsor and/or operator as required by OAR 340-020-1040252-0260(a) in order for the project to be considered from a conforming program. Any change in these mitigation or control measures that would significantly reduce their effectiveness constitutes a change in the design concept and scope of the project.

(4) TCMs. This criterion is not required to be satisfied for TCMs specifically included in an applicable implementation plan.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0860.

340-020-0870-252-0170

Criteria and Procedures: Localized CO and PM₁₀ Violations (Hot-spots)

(1) This section applies at all times. A FHWA/FTA project and any regionally significant project approved or adopted by a recipient of funds under title 23 U.S.C. must not cause or contribute to any new localized CO or PM₁₀ violations or increase the frequency or severity of any existing CO or PM₁₀ violations in CO and PM₁₀ nonattainment and maintenance areas. This criterion is satisfied if it is demonstrated that no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project. The demonstration must be performed according to the consultation requirements of OAR 340-020-0760252-0060(2)(e) and the methodology requirements of OAR 340-020-1020252-0240.

(2) This section applies for CO nonattainment areas as described in OAR 340-020-0800252-0100(4)(a). Each project must eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas) according to the consultation requirements of OAR 340-020-0760252-0060(2)(e) and the methodology requirements of OAR 340-020-1020252-00240. This criterion is satisfied with respect to existing localized CO violations if it is demonstrated that existing localized CO violations will be eliminated or reduced in severity and number as a result of the project.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0870.

340-020-0880252-0180

Criteria and Procedures: Compliance with PM₁₀ Control Measures

A FHWA/FTA project and any regionally significant project approved or adopted by a recipient of funds under title 23 U.S.C. must comply with PM₁₀ control measures in the applicable implementation plan. This criterion is satisfied if the project-level conformity determination contains a written commitment from the project sponsor to include the final plans, specifications, and estimates for the project those control measures (for the purpose of limiting PM₁₀ emissions from the construction activities and/or normal use and operation associated with the project) contained in the applicable implementation plan.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0880.

340-020-0890252-0190

Criteria and Procedures: Motor Vehicle Emissions Budget

(1) The transportation plan, TIP, and project not from a conforming transportation plan and TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies as described in OAR 340-020-0800252-0100(3) through (7). This criterion is satisfied if it is demonstrated

that emissions of the pollutants or pollutant precursors described in paragraph (c) of this section are less than or equal to the motor vehicle emissions budget(s) established in the applicable implementation plan or implementation plan submission.

(2) Consistency with the motor vehicle emissions budget(s) must be demonstrated for each year for which the applicable (and/or submitted) implementation plan specifically establishes motor vehicle emissions budget(s), for the last year of the transportation plan's forecast period, and for any intermediate years as necessary so that the years for which consistency is demonstrated are no more than ten years apart, as follows:

(a) Until a maintenance plan is submitted:

(A) Emissions in each year (such as milestone years and the attainment year) for which the control strategy implementation plan revision establishes motor vehicle emissions budget(s) must be less than or equal to that year's motor vehicle emissions budget(s); and

(B) Emissions in years for which no motor vehicle emissions budget(s) are specifically established must be less than or equal to the motor vehicle emissions budget(s) established for the most recent prior year. For example, emissions in years after the attainment year for which the implementation plan does not establish a budget must be less than or equal to the motor vehicle emissions budget(s) for the attainment year.

(b) When a maintenance plan has been submitted:

(A) Emissions must be less than or equal to the motor vehicle emissions budget(s) established for the last year of the maintenance plan, and for any other years for which the maintenance plan establishes motor vehicle emissions budgets. If the maintenance plan does not establish motor vehicle emissions budgets for any years other than the last year of the maintenance plan, the demonstration of consistency with the motor vehicle emissions budget(s) must be accompanied by a qualitative finding that there are no factors which would cause or contribute to a new violation or exacerbate an existing violation in the years before the last year of the maintenance plan. The interagency consultation process required by OAR 340-020-0760252-0060 shall determine what must be considered in order to make such a finding;

(B) For years after the last year of the maintenance plan, emissions must be less than or equal to the maintenance plan's motor vehicle emissions budget(s) for the last year of the maintenance plan; and

(C) If an approved control strategy implementation plan has established motor vehicle emissions budgets for years in the timeframe of the transportation plan, emissions in these years must be less than or equal to the control strategy implementation plan's motor vehicle emissions budget(s) for these years.

(3) Consistency with the motor vehicle emissions budget(s) must be demonstrated for each pollutant or pollutant precursor in OAR 340-020-0730252-0020(2) for which the area is in nonattainment or maintenance and for which the applicable implementation plan (or implementation plan submission) establishes a motor vehicle emissions budget.

(4) Consistency with the motor vehicle emissions budget(s) must be demonstrated by including emissions from the entire transportation system, including all regionally significant projects contained in the transportation plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the timeframe of the transportation plan.

(a) Consistency with the motor vehicle emissions budget(s) must be demonstrated with a regional emissions analysis that meets the requirements of OAR 340-020-1010252-0230 and 340-020-0760252-0060(2)(e).

(b) The regional emissions analysis may be performed for any years in the timeframe of the transportation plan provided they are not more than ten years apart and provided the analysis is performed for the attainment year (if it is in the timeframe of the transportation plan) and the last year of the plan's forecast period. Emissions in years for which consistency with motor vehicle emissions budgets must be demonstrated, as required in section (2) of this rule, may be determined by interpolating between the years for which the regional emissions analysis is performed.

(5) motor vehicle emissions budgets in submitted control strategy implementation plan revisions and submitted maintenance plans.

(a) Consistency with the motor vehicle emissions budgets in submitted control strategy implementation plan revisions or maintenance plans must be demonstrated if EPA has declared the motor vehicle emissions budget(s) adequate for transportation conformity purposes, or beginning 45 days after the control strategy implementation plan revision or maintenance plan has been submitted (unless EPA has declared the motor vehicle emissions budget(s) inadequate for transportation conformity purposes). However, submitted implementation plans do not supersede the motor vehicle emissions budgets in approved implementation plans for the period of years addressed by the approved implementation plan.

(b) If EPA has declared an implementation plan submission's motor vehicle emissions budget(s) inadequate for transportation conformity purposes, the inadequate budget(s) shall not be used to satisfy the requirements of this section. Consistency with the previously established motor vehicle emissions budget(s) must be demonstrated. If there are no previous

approved implementation plans or implementation plan submissions with motor vehicle emissions budgets, the emission reduction tests required by OAR ~~340-020-0900252-0200~~ must be satisfied.

(c) If EPA declares an implementation plan submission's motor vehicle emissions budget(s) inadequate for transportation conformity purposes more than 45 days after its submission to EPA, and conformity of a transportation plan or TIP has already been determined by DOT using the budget(s), the conformity determination will remain valid. Projects included in that transportation plan or TIP could still satisfy OAR ~~340-020-0850252-0150~~ and ~~340-020-0860252-0160~~, which require a currently conforming transportation plan and TIP to be in place at the time of a project's conformity determination and that projects come from a conforming transportation plan and TIP.

(d) EPA will not find a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan to be adequate for transportation conformity purposes unless the following minimum criteria are satisfied:

(A) The submitted control strategy implementation plan revision or maintenance plan was endorsed by the Governor (or his or her designee) and was subject to a State public hearing;

(B) Before the control strategy implementation plan or maintenance plan was submitted to EPA, consultation among federal, State, and local agencies occurred; full implementation plan documentation was provided to EPA; and EPA's stated concerns, if any, were addressed;

(C) The motor vehicle emissions budget(s) is clearly identified and precisely quantified;

(D) The motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to the given implementation plan submission);

(E) The motor vehicle emissions budget(s) is consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy implementation plan revision or maintenance plan; and

(F) Revisions to previously submitted control strategy implementation plans or maintenance plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see OAR ~~340-020-0720252-0030~~ for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled).

(e) Before determining the adequacy of a submitted motor vehicle emissions budget, EPA will review the State's compilation of public comments and response to comments that are required to be submitted with any implementation plan. EPA will document its consideration of such comments and responses in a letter to the State indicating the adequacy of the submitted motor vehicle emissions budget.

(f) When the motor vehicle emissions budget(s) used to satisfy the requirements of this section are established by an implementation plan submittal that has not yet been approved or disapproved by EPA, the MPO and DOT's conformity determinations will be deemed to be a statement that the MPO and DOT are not aware of any information that would indicate that emissions consistent with the motor vehicle emissions budget will cause or contribute to a new violation of any standard; increase the frequency or severity of any existing violation of any standard; or delay timely attainment of any standard or any required interim emission reductions or other milestones.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0890.

340-020-0900252-0200

Criteria and Procedures: Emission Reductions in Areas Without Motor Vehicle Emissions Budgets

(1) The transportation plan, TIP, and project not from a conforming transportation plan and TIP must contribute to emissions reductions. This criterion applies as described in OAR ~~340-020-0800252-0100~~(3) through ~~340-020-0800252-0100~~(7). It applies to the net effect of the action (transportation plan, TIP, or project not from a conforming transportation plan and TIP) on motor vehicle emissions from the entire transportation system.

(2) This criterion may be met in moderate and above ozone nonattainment areas that are subject to the reasonable further progress requirements of CAA section 182(b)(1) and in moderate with design value greater than 12.7 ppm and serious CO nonattainment areas if a regional emissions analysis that satisfies the requirements of OAR ~~340-020-1010252-0230~~ and actions (5) through (8) of this rule demonstrates that for each analysis year and for each of the pollutants described in section (4) of this rule:

(a) The emissions predicted in the "Action" scenario are less than the emissions predicted in the "Baseline" scenario, and this can be reasonably expected to be true in the periods between the analysis years; and

(b) The emissions predicted in the "Action" scenario are lower than 1990 emissions by any nonzero amount.

(3) This criterion may be met in PM₁₀ and NO₂ nonattainment areas; marginal and below ozone nonattainment areas and other ozone nonattainment areas that are not subject to the reasonable further progress requirements of CAA section 182(b)(1); and moderate with design value less than 12.7 ppm and below CO nonattainment areas if a regional emissions analysis that satisfies the requirements of OAR 340-020-1010252-0230 and sections (5) through (8) of this rule demonstrates that for each analysis year and for each of the pollutants described in section (4) of this rule, one of the following requirements is met:

(a) The emissions predicted in the "Action" scenario are less than the emissions predicted in the "Baseline" scenario, and this can be reasonably expected to be true in the periods between the analysis years; or

(b) The emissions predicted in the "Action" scenario are not greater than baseline emissions. Baseline emissions are those estimated to have occurred during calendar year 1990, unless an implementation plan revision defines the baseline emissions for a PM₁₀ area to be those occurring in a different calendar year for which a baseline emissions inventory was developed for the purpose of developing a control strategy implementation plan.

(4) Pollutants. The regional emissions analysis must be performed for the following pollutants:

(a) VOC in ozone areas;

(b) NO_x in ozone areas, unless the EPA Administrator determines that additional reductions of NO_x would not contribute to attainment;

(c) CO in CO areas;

(d) PM₁₀ in PM₁₀ areas;

(e) Transportation-related precursors of PM₁₀ in PM₁₀ nonattainment and maintenance areas if the EPA Regional Administrator or the director of the State air agency has made a finding that such precursor emissions from within the area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and DOT; and

(f) NO_x in NO₂ areas.

(5) Analysis years. The regional emissions analysis must be performed for analysis years that are no more than ten years apart. The first analysis year must be no more than five years beyond the year in which the conformity determination is being made. The last year of a transportation plan's forecast period must also be an analysis year.

(6) "Baseline" scenario. The regional emissions analysis required by sections (2) and (3) of this rule must estimate the emissions that would result from the "Baseline" scenario in each analysis year. The "Baseline" scenario must be defined for each of the analysis years. The "Baseline" scenario is the future transportation system that will result from current programs, including the following (except that exempt projects listed in OAR 340-020-1050252-0270 and projects exempt from regional emissions analysis as listed in OAR 340-020-1060252-0280 need not be explicitly considered):

(a) All in-place regionally significant highway and transit facilities, services and activities;

(b) All ongoing travel demand management or transportation system management activities; and

(c) Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first year of the previously conforming transportation plan and/or TIP; or have completed the NEPA process.

(7) "Action" scenario. The regional emissions analysis required by sections (2) and (3) of this rule must estimate the emissions that would result from the "Action" scenario in each analysis year. The "Action" scenario must be defined for each of the analysis years. The "Action" scenario is the transportation system that would result from the implementation of the proposed action (transportation plan, TIP, or project not from a conforming transportation plan and TIP) and all other expected regionally significant projects in the nonattainment area. The "Action" scenario must include the following (except that exempt projects listed in OAR 340-020-1050252-0270 and projects exempt from regional emissions analysis as listed in OAR 340-020-1060252-0280 need not be explicitly considered):

(a) All facilities, services, and activities in the "Baseline" scenario;

(b) Completion of all TCMs and regionally significant projects (including facilities, services, and activities) specifically identified in the proposed transportation plan which will be operational or in effect in the analysis year, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;

(c) All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination;

(d) The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which were adopted and/or funded prior to the date of the last conformity determination, but which have been modified since then to be more stringent or effective;

(e) Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP; and

(f) Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.

(8) Projects not from a conforming transportation plan and TIP. For the regional emissions analysis required by sections (2) and (3) of this rule, if the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the plan or TIP, the "Baseline" scenario must include the project with its original design concept and scope, and the "Action" scenario must include the project with its new design concept and scope.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0900.

340-020-0910252-0210

Consequences of Control Strategy Implementation Plan Failures

(1) Disapprovals.

(a) If EPA disapproves any submitted control strategy implementation plan revision (with or without a protective finding), the conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions as a result of the disapproval are imposed on the nonattainment area under section 179(b)(1) of the CAA. No new transportation plan, TIP, or project may be found to conform until another control strategy implementation plan revision fulfilling the same CAA requirements is submitted and conformity to this submission is determined.

(b) If EPA disapproves a submitted control strategy implementation plan revision without making a protective finding, then beginning 120 days after such disapproval, only projects in the first three years of the currently conforming transportation plan and TIP may be found to conform. This means that beginning 120 days after disapproval without a protective finding, no transportation plan, TIP, or project not in the first three years of the currently conforming plan and TIP may be found to conform until another control strategy implementation plan revision fulfilling the same CAA requirements is submitted and conformity to this submission is determined. During the first 120 days following EPA's disapproval without a protective finding, transportation plan, TIP, and project conformity determinations shall be made using the motor vehicle emissions budget(s) in the disapproved control strategy implementation plan, unless another control strategy implementation plan revision has been submitted and its motor vehicle emissions budget(s) applies for transportation conformity purposes, pursuant to OAR 340-020-0800252-0100.

(c) In disapproving a control strategy implementation plan revision, EPA would give a protective finding where a submitted plan contains adopted control measures or written commitments to adopt enforceable control measures that fully satisfy the emissions reductions requirements relevant to the statutory provision for which the implementation plan revision was submitted, such as reasonable further progress or attainment.

(2) Failure to submit and incompleteness. In areas where EPA notifies the State, MPO, and DOT of the State's failure to submit a control strategy implementation plan or submission of an incomplete control strategy implementation plan revision (either of which initiates the sanction process under CAA sections 179 or 110(m)), the conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions are imposed on the nonattainment area for such failure under section 179(b)(1) of the CAA, unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator.

(3) Federal implementation plans. If EPA promulgates a Federal implementation plan that contains motor vehicle emissions budget(s) as a result of a State failure, the conformity lapse imposed by this section because of that State failure is removed.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-202-0910.

340-020-1000252-0220

Requirements for Adoption or Approval of Projects by Other Recipients of Funds Designated under Title 23 U.S.C. or the Federal Transit Laws

(1) Except as provided in section 2 of this rule, no recipient of Federal funds designated under title 23 U.S.C. or the Federal Transit Laws shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one of the following are met:

(a) The project was included in the first three years of the most recently conforming transportation plan and TIP (or the conformity determination's regional emissions analyses), even if conformity status is currently lapsed; and the project's design concept and scope has not changed significantly from those analyses;

(b) There is a currently conforming transportation plan and TIP, and a new regional emissions analysis including the project and the currently conforming transportation plan and TIP demonstrates that the transportation plan and TIP would still conform if the project were implemented (consistent with the requirements of OAR 340-020-0890252-0190 and/or 340-020-0900252-0200 for a project not from a conforming transportation plan and TIP); or

(c) Where applicable, as established in OAR 340-020-1020252-0240, project level hot-spot analysis criteria have been satisfied.

(2) In non-metropolitan nonattainment and maintenance areas subject to OAR 340-020-0800252-0100(7), no recipient of Federal funds designated under title 23 U.S.C. or the Federal Transit Laws shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one of the following are met:

(a) The project was included in the regional emissions analysis supporting the most recent conformity determination for the portion of the statewide transportation plan and TIP which are in the nonattainment or maintenance area, and the project's design concept and scope has not changed significantly;

(b) A new regional emissions analysis including the project and all other regionally significant projects expected in the nonattainment or maintenance area demonstrates that those projects in the statewide transportation plan and statewide TIP which are in the nonattainment or maintenance area would still conform if the project were implemented (consistent with the requirements of OAR 340-020-0890252-0190 and/or 340-020-0900252-0200 for projects not from a conforming transportation plan and TIP); or

(c) Where applicable, as established in OAR 340-020-1020252-0240, project level hot-spot analysis criteria have been satisfied.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1000.

340-020-1010252-0230

Procedures for Determining Regional Transportation-Related Emissions

(1) General requirements.

(a) The regional emissions analysis required by OAR 340-020-0890252-0190 and 340-020-0900252-0200 for the transportation plan, TIP, or project not from a conforming plan and TIP must include all regionally significant projects expected in the nonattainment or maintenance area. The analysis shall include FHWA/FTA projects proposed in the transportation plan and TIP and all other regionally significant projects which are disclosed to the MPO as required by OAR 340-020-0760252-0060. Projects which are not regionally significant are not required to be explicitly modeled, but vehicle miles traveled (VMT) from such projects must be estimated in accordance with reasonable professional practice. The effects

of TCMs and similar projects that are not regionally significant may also be estimated in accordance with reasonable professional practice.

(b) The emissions analysis may not include for emissions reduction credit any TCMs or other measures in the applicable implementation plan which have been delayed beyond the scheduled date(s) until such time as their implementation has been assured. If the measure has been partially implemented and it can be demonstrated that it is providing quantifiable emission reduction benefits, the emissions analysis may include that emissions reduction credit.

(c) Emissions reduction credit from projects, programs, or activities which require a regulatory action in order to be implemented may not be included in the emissions analysis unless:

(A) The regulatory action is already adopted by the enforcing jurisdiction;

(B) The project, program, or activity is included in the applicable implementation plan;

(C) The control strategy implementation plan submission or maintenance plan submission that establishes the motor vehicle emissions budget(s) for the purposes of OAR 340-020-0890252-0190 contains a written commitment to the project, program, or activity by the agency with authority to implement it; or

(D) EPA has approved an opt-in to a Federally enforced program, EPA has promulgated the program (if the control program is a Federal responsibility, such as vehicle tailpipe standards), or the Clean Air Act requires the program without need for individual State action and without any discretionary authority for EPA to set its stringency, delay its effective date, or not implement the program.

(d) Emissions reduction credit from control measures that are not included in the transportation plan and TIP and that do not require a regulatory action in order to be implemented may not be included in the emissions analysis unless the conformity determination includes written commitments to implementation from the appropriate entities.

(A) Persons or entities voluntarily committing to control measures must comply with the obligations of such commitments.

(B) The conformity implementation plan revision required in 40 CFR 51.390 must provide that written commitments to control measures that are not included in the transportation plan and TIP must be obtained prior to a conformity determination and that such commitments must be fulfilled.

(e) A regional emissions analysis for the purpose of satisfying the requirements of OAR 340-020-0900252-0200 must make the same assumptions in both the "Baseline" and "Action" scenarios regarding control measures that are external to the transportation system itself, such as vehicle tailpipe or evaporative emission standards, limits on gasoline volatility, vehicle inspection and maintenance programs, and oxygenated or reformulated gasoline or diesel fuel.

(f) The ambient temperatures used for the regional emissions analysis shall be consistent with those used to establish the emissions budget in the applicable implementation plan. All other factors, for example the fraction of travel in a hot stabilized engine mode, must be consistent with the applicable implementation plan, unless modified after interagency consultation according to OAR 340-020-0760252-0060(2)(e) to incorporate additional or more geographically specific information or represent a logically estimated trend in such factors beyond the period considered in the applicable implementation plan.

(g) Reasonable methods shall be used to estimate nonattainment or maintenance area VMT on off-network roadways within the urban transportation planning area, and on roadways outside the urban transportation planning area.

(2) Regional emissions analysis in serious, severe, and extreme ozone nonattainment areas and serious CO nonattainment areas must meet the requirements of subsections (2)(a) through (c) of this rule if their metropolitan planning area contains an urbanized area population over 200,000.

(a) By January 1, 1997, estimates of regional transportation-related emissions used to support conformity determinations must be made at a minimum using network-based travel models according to procedures and methods that are available and in practice and supported by current and available documentation. These procedures, methods, and practices are available from DOT and will be updated periodically. Agencies must discuss these modeling procedures and practices through the interagency consultation process, as required by OAR 340-020-0760252-0060(2)(e). Network-based travel models must at a minimum satisfy the following requirements:

(A) Network-based travel models must be validated against observed counts (peak and off-peak, if possible) for a base year that is not more than 10 years prior to the date of the conformity determination. Model forecasts must be analyzed for reasonableness and compared to historical trends and other factors, and the results must be documented;

(B) Land use, population, employment, and other network-based travel model assumptions must be documented and based on the best available information;

(C) Scenarios of land development and use must be consistent with the future transportation system alternatives for which emissions are being estimated. The distribution of employment and residences for different transportation options must be reasonable;

(D) A capacity-sensitive assignment methodology must be used, and emissions estimates must be based on a methodology which differentiates between peak and off-peak link volumes and speeds and uses speeds based on final assigned volumes;

(E) Zone-to-zone travel impedances used to distribute trips between origin and destination pairs must be in reasonable agreement with the travel times that are estimated from final assigned traffic volumes. Where use of transit currently is anticipated to be a significant factor in satisfying transportation demand, these times should also be used for modeling mode splits; and

(F) Network-based travel models must be reasonably sensitive to changes in the time(s), cost(s), and other factors affecting travel choices.

(b) Reasonable methods in accordance with good practice must be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network-based travel model.

(c) Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled (VMT) shall be considered the primary measure of VMT within the portion of the nonattainment or maintenance area and for the functional classes of roadways included in HPMS, for urban areas which are sampled on a separate urban area basis. For areas with network-based travel models, a factor (or factors) may be developed to reconcile and calibrate the network-based travel model estimates of VMT in the base year of its validation to the HPMS estimates for the same period. These factors may then be applied to model estimates of future VMT. In this factoring process, consideration will be given to differences between HPMS and network-based travel models, such as differences in the facility coverage of the HPMS and the modeled network description. Locally developed count-based programs and other departures from these procedures are permitted subject to the interagency consultation procedures of OAR 340-020-0760252-0060(2)(e).

(3) All other metropolitan nonattainment areas shall comply with the following requirements after January 1, 1996:

(a) Estimates of regional transportation-related emissions used to support conformity determinations must be made according to the procedures which meet the requirements in sections (3)(b) and (c) of this rule.

(b) Procedures which satisfy some or all of the requirements of section (2) of this rule shall be used in all areas not subject to section (2) of this rule where those procedures have been the previous practice of the MPO.

(c) At a minimum, these areas shall estimate emissions using methodologies and procedures which possess the following attributes:

(A) A network based travel demand model which describes the network in sufficient detail to capture at least 85 percent of the vehicle trips;

(B) An ability to generate plausible vehicle trip tables based on current and future land uses and travel options in the region;

(C) Software, or other appropriate procedures, to assign the full spectrum of vehicular traffic including, where possible, truck traffic, to the network;

(D) Other modes of travel shall be estimated in accordance with reasonable professional practice either quantitatively or qualitatively;

(E) Sufficient field observations of traffic (e.g. average speeds, average daily volumes, average peaking factors for specific links that are directly identifiable in the network) to calibrate the traffic assignment for base year data;

(F) Software, or other appropriate procedures, to calculate emissions based on network flows and link speeds, and as necessary, to refine speed estimates from assigned traffic;

(G) Software, or other appropriate procedures, to account for additional "off-model" transportation emissions; and

(H) estimates of future land uses sufficient to allow projections of future emissions.

(4) PM₁₀ from construction-related fugitive dust.

(a) For areas in which the implementation plan does not identify construction-related fugitive PM₁₀ as a contributor to the nonattainment problem, the fugitive PM₁₀ emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.

(b) In PM₁₀ nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM₁₀ as a contributor to the nonattainment problem, the regional PM₁₀ emissions analysis shall consider construction-related fugitive PM₁₀ and shall account for the level of construction activity, the fugitive PM₁₀ control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

(5) Reliance on previous regional emissions analysis.

(a) The TIP may be demonstrated to satisfy the requirements of OAR ~~340-020-0890252-0190~~ 340-020-0900252-0190 ("motor vehicle emissions budget") or ~~340-020-0900252-0200~~ 340-020-0900252-0200 ("Emission reductions in areas without motor vehicle emissions budgets") without new regional emissions analysis if the regional emissions analysis already performed for the plan also applies to the TIP. This requires a demonstration that:

(A) The TIP contains all projects which must be started in the TIP's timeframe in order to achieve the highway and transit system envisioned by the transportation plan;

(B) All TIP projects which are regionally significant are included in the transportation plan with design concept and scope adequate to determine their contribution to the transportation plan's regional emissions at the time of the transportation plan's conformity determination; and

(C) The design concept and scope of each regionally significant project in the TIP is not significantly different from that described in the transportation plan.

(b) A project which is not from a conforming transportation plan and a conforming TIP may be demonstrated to satisfy the requirements of OAR ~~340-020-0890252-0190~~ 340-020-0900252-0190 or ~~340-020-0900252-0200~~ 340-020-0900252-0200 without additional regional emissions analysis if allocating funds to the project will not delay the implementation of projects in the transportation plan or TIP which are necessary to achieve the highway and transit system envisioned by the transportation plan, and if the project is either:

(A) Not regionally significant; or

(B) Included in the conforming transportation plan (even if it is not specifically included in the latest conforming TIP) with design concept and scope adequate to determine its contribution to the transportation plan's regional emissions at the time of the transportation plan's conformity determination, and the design concept and scope of the project is not significantly different from that described in the transportation plan.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~ 340-020-0047200-0040.]

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1010.

~~340-020-1020252-0240~~

Procedures for Determining Localized CO and PM₁₀ Concentrations (Hot-spot Analysis)

(1) CO Hot-spot analysis.

(a) The demonstrations required by OAR ~~340-020-0870252-0170~~ 340-020-0870252-0170 ("Localized CO and PM10 violations") must be based on quantitative analysis using the applicable air quality models, data bases, and other requirements specified in 40 CFR part 51, Appendix W (Guideline on Air Quality Models). These procedures shall be used in the following cases, unless different procedures developed through the interagency consultation process required in OAR ~~340-020-0760252-0060~~ 340-020-0760252-0060 and approved by the EPA Regional Administrator are used:

(A) For projects in or affecting locations, areas, or categories of sites which are identified in the applicable implementation plan as sites of violation or possible violation;

(B) For projects affecting intersections that are at Level-of- Service D, E, or F, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes related to a new FHWA/FTA funded or approved project in the vicinity;

(C) For any project affecting one or more of the top three intersections in the nonattainment or maintenance area with highest traffic volumes, as identified in the applicable implementation plan; and

(D) For any project affecting one or more of the top three intersections in the nonattainment or maintenance area with the worst level of service, as identified in the applicable implementation plan.

(b) In cases other than those described in subsection (1)(a) of this rule, the demonstrations required by OAR ~~340-020-0870252-0170~~ 340-020-0870252-0170 may be based on either:

(A) Quantitative methods that represent reasonable and common professional practice; or

(B) A qualitative consideration of local factors, if this can provide a clear demonstration that the requirements of OAR ~~340-020-0870252-0170~~ 340-020-0870252-0170 are met.

(2) PM10 Hot-spot analysis.

(a) The hot-spot demonstration required by OAR ~~340-020-0870252-0170~~ 340-020-0870252-0170 must be based on quantitative analysis methods for the following types of projects:

(A) Projects which are located at sites at which violations have been verified by monitoring;

(B) Projects which are located at sites which have vehicle and roadway emission and dispersion characteristics that are essentially identical to those of sites with verified violations (including sites near one at which a violation has been monitored); and

(C) New or expanded bus and rail terminals and transfer points which increase the number of diesel vehicles congregating at a single location.

(b) Where quantitative analysis methods are not required, the demonstration required by OAR 340-020-0870252-0170 may be based on a qualitative consideration of local factors.

(c) The identification of the sites described in paragraphs (2)(a)(A) and (2)(a)(B) of this rule, and other cases where quantitative methods are appropriate, shall be determined through the interagency consultation process required in OAR 340-020-0760252-0060. DOT may choose to make a categorical conformity determination on bus and rail terminals or transfer points based on appropriate modeling of various terminal sizes, configurations, and activity levels.

(d) The requirements for quantitative analysis contained in this section (2) will not take effect until EPA releases modeling guidance on this subject and announces in the Federal Register that these requirements are in effect.

(3) General requirements.

(a) Estimated pollutant concentrations must be based on the total emissions burden which may result from the implementation of the project, summed together with future background concentrations. The total concentration must be estimated and analyzed at appropriate receptor locations in the area substantially affected by the project.

(b) Hot-Spot Analyses must include the entire project, and may be performed only after the major design features which will significantly impact concentrations have been identified. The future background concentration should be estimated by multiplying current background by the ratio of future to current traffic and the ratio of future to current emission factors.

(c) Hot-spot analysis assumptions must be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.

(d) PM10 or CO mitigation or control measures shall be assumed in the hot-spot analysis only where there are written commitments from the project sponsor and/or operator to implement such measures, as required by OAR 340-020-1040252-0260(1).

(e) CO and PM10 Hot-Spot Analyses are not required to consider construction-related activities which cause temporary increases in emissions. Each site which is affected by construction-related activities shall be considered separately, using established "Guideline" methods. Temporary increases are defined as those which occur only during the construction phase and last five years or less at any individual site.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, cert. ef. 9-23-98; renumbered from OAR 340-020-1020.

340-020-1030252-0250

Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan (or Implementation Plan Submission)

(1) In interpreting an applicable implementation plan, or implementation plan submission with respect to its Motor Vehicle Emissions Budget(s), the MPO and DOT may not infer additions to the budget(s) that are not explicitly intended by the implementation plan, or submission. Unless the implementation plan explicitly quantifies the amount by which motor vehicle emissions could be higher while still allowing a demonstration of compliance with the milestone, attainment, or maintenance requirement and explicitly states an intent that some or all of this additional amount should be available to the MPO and DOT in the emission budget for conformity purposes, the MPO or ODOT may not interpret the budget to be higher than the implementation plan's estimate of future emissions. This applies in particular to applicable implementation plans, or submissions, which demonstrate that after implementation of control measures in the implementation plan:

(a) Emissions from all sources will be less than the total emissions that would be consistent with a required demonstration of an emissions reduction milestone;

(b) Emissions from all sources will result in achieving attainment prior to the attainment deadline or ambient concentrations in the attainment deadline year will be lower than needed to demonstrate attainment; or

(c) Emissions will be lower than needed to provide for continued maintenance.

(2) If an applicable implementation plan submitted before November 24, 1993, demonstrates that emissions from all sources will be less than the total emissions that would be consistent with attainment and quantifies that "safety margin", the State may submit a SIP revision which assigns some or all of this safety margin to highway and transit mobile sources for the purposes of conformity. Such a SIP revision, once it is endorsed by the Governor and has been subject to a public hearing, may be used for the purposes of transportation conformity before it is approved by EPA.

(3) A conformity demonstration shall not trade emissions among budgets which the applicable implementation plan, or implementation plan submission, allocates for different pollutants or precursors, or among budgets allocated to motor vehicles and other sources, unless the implementation plan establishes mechanisms for such trades.

(4) If the applicable implementation plan, or implementation plan submission, estimates future emissions by geographic subarea of the nonattainment area, the MPO and DOT are not required to consider this to establish subarea budgets, unless the applicable implementation plan, or implementation plan submission, explicitly indicates an intent to create such subarea budgets for purposes of conformity.

(5) If a nonattainment area includes more than one MPO, the SIP may establish motor vehicle emissions budgets for each MPO, or else the MPOs must collectively make a conformity determination for the entire nonattainment area.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1030.

340-020-1040252-0260

Enforceability of Design Concept and Scope and Project-Level Mitigation and Control Measures

(1) Prior to determining that a transportation project is in conformity, the MPO, ODOT, other recipient of funds designated under title 23 U.S.C. or the Federal Transit Laws, FHWA, or FTA must obtain from the project sponsor and/or operator written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local PM₁₀ or CO impacts. Before a conformity determination is made, written commitments must also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and included in the project design concept and scope which is used in the regional emissions analysis required by sections OAR 340-020-0890252-0190 ("motor vehicle emissions budget") and 340-020-0900252-0200 ("Emission reductions in areas without motor vehicle emissions budgets") or used in the project-level hot-spot analysis required by OAR 340-020-0870252-0170.

(2) Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

(3) The implementation plan revision required in 40 CFR 51.390 shall provide that written commitments to mitigation measures must be obtained prior to a positive conformity determination, and that project sponsors must comply with such commitments.

(4) If the MPO, ODOT or project sponsor believes the mitigation or control measure is no longer necessary for conformity, the project sponsor or operator may be relieved of its obligation to implement the mitigation or control measure if it can demonstrate that the applicable hot-spot requirements of OAR 340-020-0870252-0170, emission budget requirements of 340-020-0890252-0190, and emission reduction requirements of 340-020-0900252-0200 are satisfied without the mitigation or control measure, and so notifies the agencies involved in the interagency consultation process required under OAR 340-020-0760252-0060. The MPO and DOT must find that the transportation plan and TIP still satisfy the applicable requirements of OAR 340-020-0890252-0190 and 340-020-0900252-0200 and that the project still satisfies the requirements of OAR 340-020-0870252-0170, and therefore that the conformity determinations for the transportation plan, TIP and project are still valid. This finding is subject to the applicable public consultation requirements in OAR 340-020-0760252-0060(4) for conformity determinations for projects.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1040.

~~340-020-1050252-0270~~

Exempt Projects

Notwithstanding the other requirements of this rule, highway and transit projects of the types listed in Table 2 are exempt from the requirement to determine conformity. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 of this section is not exempt if the MPO or ODOT in consultation with other agencies under OAR ~~340-020-0760252-0060~~(3)(b)&(d), and the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. States and MPOs must ensure that exempt projects do not interfere with TCM implementation. Table 2 follows:

Table 2 - Exempt projects

SAFETY

- Railroad/highway crossing.
- Hazard elimination program.
- Safer non-Federal-aid system roads.
- Traffic control devices and operating assistance other than signalization projects.
- Shoulder improvements.
- Increasing sight distance.
- Safety improvement program.
- Railroad/highway crossing warning devices.
- Guardrails, median barriers, crash cushions.
- Pavement resurfacing and/or rehabilitation.
- Pavement marking demonstration.
- Emergency relief (23 U.S.C. 125).
encing.
- Skid treatments.
- Safety roadside rest areas.
- Adding medians.
- Truck climbing lanes outside the urbanized area.
- Lighting improvements.
- Widening narrow pavements or reconstructing bridges (no additional travel lanes).
- Emergency truck pullovers.

MASS TRANSIT

- Operating assistance to transit agencies.
- Purchase of support vehicles.
- Rehabilitation of transit vehicles.¹
- Purchase of office, shop, and operating equipment for existing facilities.
- Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.).
- Construction or renovation of power, signal, and communications systems.
- Construction of small passenger shelters and information kiosks.
- Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures).
- Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way.
- Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet.¹
- Construction of new bus or rail storage/maintenance facilities categorically excluded in **23 CFR 771**.

AIR QUALITY

- Continuation of ride-sharing and van-pooling promotion activities at current levels.
- Bicycle and pedestrian facilities.

OTHER

Specific activities which do not involve or lead directly to construction such as:

Planning and technical studies.

Grants for training and research programs.

Planning activities conducted pursuant to titles 23 and 49 U.S.C.

Federal-aid systems revisions.

Engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action.

Noise attenuation.

Emergency or hardship advance land acquisitions (**23 CFR 712** or **23 CFR 771**).

Acquisition of scenic easements.

Plantings, landscaping, etc.

Sign removal.

Directional and informational signs.

Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities).

Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes.

Note: ¹ In PM₁₀ nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1050.

340-020-1060-252-0280

Projects Exempt from Regional Emissions Analyses

Notwithstanding the other requirements of this rule, highway and transit projects of the types listed in Table 3 of this section are exempt from regional emissions analysis requirements. The local effects of these projects with respect to CO or PM-10 concentrations must be considered to determine if a hot-spot analysis is required prior to making a project-level conformity determination. These projects may then proceed to the project development process even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 3 is not exempt from regional emissions analysis if the MPO or ODOT in consultation with other agencies (see OAR ~~340-020-0760252-0060~~), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potential regional impacts for any reason. Table 3 follows:

Table 3 - Projects Exempt From Regional Emissions Analyses

Intersection channelization projects.

Intersection signalization projects at individual intersections.

Interchange reconfiguration projects.

Changes in vertical and horizontal alignment.

Truck size and weight inspection stations.

Bus terminals and transfer points.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Tables: The table(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1060.

340-020-1070~~252-0290~~

Traffic Signal Synchronization Projects

Traffic signal synchronization projects may be approved, funded, and implemented without satisfying the requirements of ~~OAR 340-020-0710 through 340-020-1070~~ this division. However, all subsequent regional emissions analyses required by ~~OAR 340-020-0890~~252-0190 and ~~340-020-0900~~252-0200 for transportation plans, TIPs, or projects not from a conforming plan and TIP must include such regionally significant traffic signal synchronization projects.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under ~~OAR 340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 7-1995, f. & cert. ef. 3-29-95; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-1070.

DIVISION 254

RULES FOR INDIRECT SOURCES

~~Indirect Source Construction Permit Rules~~

~~340-020-0100254-0010~~

Policy

The Commission finds and declares Indirect Sources to be air contamination sources as defined in ORS 468A.005. The Commission further finds and declares that the regulation of Indirect Sources is necessary to control the concentration of air contaminants which result from Motor Vehicle Trips and/or Aircraft Operations associated with the use of Indirect Sources.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 81, f. 12-5-74, ef. 12-25-74; DEQ 110(Temp), f. & ef. 3-17-76; DEQ 118, f. & ef. 8-11-76; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-020-0100.

~~340-020-0105254-0020~~

Jurisdiction and Delegation

The Commission finds that the complexity or magnitude of Indirect Sources requires statewide regulation and assumes or retains jurisdiction thereof. The Commission may, however, when any Regional Authority requests and provides evidence demonstrating its capability to carry out the provisions of these rules relating to Indirect Sources, authorize and confer jurisdiction upon such Regional Authority to perform all or any of such provisions within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 81, f. 12-5-74, ef. 12-25-74; DEQ 110(Temp), f. & ef. 3-17-76; DEQ 118, f. & ef. 8-11-76; renumbered from OAR 340-020-0105.

~~340-020-0110254-0030~~

Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division. As used in OAR 340-020-0100 through 340-020-0135:

(1) "Associated Parking" means a Parking Facility or facilities owned, operated, and/or used in conjunction with an Indirect Source.

(2) "Average Daily Traffic" means the total traffic volume during a given time period in whole days greater than one day and less than one year divided by the number of days in that time period, commonly abbreviated as ADT.

(3) "Commence Construction" means to begin to engage in a continuous program of on-site construction or on-site modifications, including site clearance, grading, dredging, or landfilling in preparation for the construction, installation, or modification of an Indirect Source. Interruptions and delays resulting from natural disasters, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(4) "Department" means the Department of Environmental Quality.

(5) "Director" means the Director of the Department or Regional Authority and authorized deputies or officers.

(6) "Indirect Source" means a facility, building, structure, or installation, or any portion or combination thereof, which indirectly causes or may cause Mobile Source activity that results in emissions of an air contaminant for which there is a National Ambient Air Quality Standard. Such Indirect Sources shall include, but not be limited to:

- (a) Parking Facilities;
- (b) Retail, Commercial, and Industrial Facilities;
- (c) Recreation, Amusement, Sports, and Entertainment Facilities;
- (d) Office and Government Buildings;
- (e) Educational Facilities;
- (f) Hospital Facilities;

(7) "Indirect Source Construction Permit" means a written permit in letter form issued by the Department or Regional Authority having jurisdiction, bearing the signature of the Director, which authorizes the permittee to commence construction of an Indirect Source under construction and operation conditions and schedules as specified in the permit.

(8) "Indirect Source Emission Control Program" or "ISECP" means a program which reduces Mobile Source emissions resulting from the use of the Indirect Source. An ISECP may include, but is not limited to:

- (a) Posting transit route and scheduling information;
- (b) Construction and maintenance of bus shelters and turn-out lanes;
- (c) Maintaining mass transit fare reimbursement programs;
- (d) Making a car pool matching system available to employees, shoppers, students, residents, etc.;
- (e) Reserving Parking Spaces for car pools;
- (f) Making Parking Spaces available for park-and-ride stations;
- (g) Minimizing vehicle running time within parking lots through the use of sound parking lot design;
- (h) Ensuring adequate gate capacity by providing for the proper number and location of entrances and exits and optimum signalization for such;
 - (i) Limiting traffic volume so as not to exceed the carrying capacity of roadways;
 - (j) Altering the level of service at controlled intersections;
 - (k) Obtaining a written statement of intent from the appropriate public agency(s) on the disposition of roadway improvements, modifications, and/or additional transit facilities to serve the individual source;
 - (l) Construction and maintenance of exclusive transit ways;
 - (m) Providing for the collection of air quality monitoring data at Reasonable Receptor and Exposure Sites;
 - (n) Limiting facility modifications which can take place without resubmission of permit application.

(9) "Mobile Source" means self-propelled vehicles, powered by internal combustion engines including, but not limited to, automobiles, trucks, motorcycles, and aircraft.

(10) "Off-Street Area or Space" means any area or space not located on a public road dedicated for public use.

(11) "Parking Facility" means any building, structure, lot, or portion thereof, designed and used primarily for the temporary storage of motor vehicles in designated Parking Spaces.

(12) "Parking Space" means any Off-Street Area or Space below, above, or at ground level, open or enclosed, that is used for parking one motor vehicle at a time.

(13) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State and any agencies thereof, and the federal government and any agencies thereof.

(14) "Population" means that population estimate most recently published by the Center for Population Research and Census, Portland State University, or any other population estimate approved by the Department.

(15) "Regional Authority" means a regional air quality control authority established under the provisions of ORS 468A.105.

(16) "Reasonable Receptor and Exposure Sites" means locations where people might reasonably be expected to be exposed to air contaminants generated in whole or in part by the Indirect Source in question.

(17) "Sensitive Area" means locations which are actual or potential areas containing Carbon Monoxide hot-spots, as determined by the Department.

(18) "Vehicle Trip" means a single movement by a motor vehicle which originates or terminates at or uses an Indirect Source.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 81, f. 12-5-74, ef. 12-25-74; DEQ 86, f. 3-11-75, ef. 4-11-75; DEQ 110(Temp), f. & ef. 3-1-76 thru 7-14-76; DEQ 118, f. & ef. 8-11-76; DEQ 17-1990, f. & cert. ef. 5-25-90; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0110.

~~340-020-0115-254-0040~~

Indirect Sources Required to Have Indirect Source Construction Permits

The owner, operator, or developer of an Indirect Source identified in section (1) of this rule shall not commence construction of such a source without an approved Indirect Source Construction Permit issued by the Department or Regional Authority having jurisdiction.

(1) All Indirect Sources meeting the criteria of this section relative to type, location, size, and operation are required to apply for an Indirect Source Construction Permit: The following sources that are located within the boundaries of a Carbon Monoxide nonattainment area or maintenance area identified in the State Implementation Plan, provided that such areas include at least one city containing 50,000 or more Population within the city's municipal boundary, including but not limited to Portland, Salem, Medford and Eugene. Any Parking Facility or other Indirect Source with Associated Parking being constructed or modified to create new or additional parking or Associated Parking, capacity of 1000 or more Parking Spaces, except within the Central City area of Portland as defined in the Carbon Monoxide Maintenance Plan and Redesignation Request for the Portland (Metro) Area, where the minimum number of Parking Spaces associated with an Indirect Source requiring Department approval shall be 800.

(2) Where an Indirect Source is constructed or modified in increments which individually are not subject to review under this rule, and which are not part of a program of construction or modification in planned incremental phases approved by the Director, all such increments commenced after January 1, 1975, shall be added together for determining the applicability of this rule.

(3) An Indirect Source Construction Permit may authorize more than one phase of construction where commencement of construction or modification of successive phases will begin over acceptable periods of time referred to in the permit; and thereafter construction or modification of each phase may be begun without the necessity of obtaining another permit. ~~†OAR 340-030-0115(5) renumbered to 340-030-0120†~~

Stat. Auth.: ORS 468.020, ORS 468.065, ORS 468A.040 & ORS 468A.055

Stats. Implemented: ORS 468.020, ORS 468.065 & ORS 468A.040

Hist.: DEQ 81, f. 12-5-74, ef. 12-25-74; DEQ 86, f. 3-11-75, ef. 4-11-75; DEQ 110(Temp), f. & ef. 3-1-76 thru 7-14-76; DEQ 118, f. & ef. 8-11-76; DEQ 6-1984(Temp), f. & ef. 4-17-84; DEQ 19-1984, f. & ef. 10-16-84; DEQ 17-1990, f. & cert. ef. 5-25-90; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0115.

340-020-0120254-0050

Indirect Source Permit Application Process

Persons applying for an Indirect Source Permit shall at the time of application pay the following fees:

- (1) Filing Fee of \$100;
- (2) Basic Application Processing Fee of \$500;
- (3) Extended Analysis Processing Fee of \$2000 may be required of applicants with parking facilities of 800 or greater spaces if those facilities are in Sensitive Areas.

Stat. Auth.: ORS 468.065

Stats. Implemented: ORS 468A.040

Hist.: DEQ 81, f. 12-5-74, ef. 12-25-74; DEQ 110(Temp), f. & ef. 3-1-76 thru 7-14-76; DEQ 118, f. & ef. 8-11-76; DEQ 6-1984(Temp), f. & ef. 4-17-84; DEQ 19-1984, f. & ef. 10-16-84; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0120.

340-020-0125254-0060

Indirect Source Construction Permit Application Requirements for Parking Facilities.

- (1) For Parking Facilities subject to this regulation, the following information shall be submitted to the Department:
- (a) A completed Short Form Application;
 - (b) A map showing the location of the site;
 - (c) A description of the proposed and prior use of the site;
 - (d) A site plan showing the location and quantity of Parking Spaces at the Indirect Source and Associated Parking area, points of motor vehicle ingress and egress to and from the site and Associated Parking;
 - (e) An estimate of the annual average weekday Vehicle Trips generated by the movement of Mobile Sources to and from the Parking Facility and/or Associated Parking Facility for the first and fifth years after completion of each planned incremental phase of the Indirect Source;
 - (f) A description of the availability and type of mass transit presently serving or projected to serve the proposed Indirect Source. This description shall include mass transit operation within 1/4 mile of the boundary of the Indirect Source;
 - (g) Such additional information as may be required when there is reasonable basis for concluding:
 - (A) That the Indirect Source may cause or contribute to a violation of the Clean Air Act Implementation Plan for Oregon;
- or
- (B) That the Indirect Source may cause or contribute to a delay in the attainment of or a violation of any applicable ambient air quality standard; or

(C) That the information is necessary to determine whether the proposed Indirect Source may cause or contribute to any such delay or violation. The Department shall base such conclusion on any reliable information, including but not limited to ambient air monitoring, traffic volume, traffic speed, or air quality projections based thereon.

(D) The additional information that may be required as a condition precedent to issuance of a permit may include any of that information required to be submitted in a Long Form Application by section (2) of this rule.

(2) Additional Requirements for Sensitive Areas. For Indirect Sources proposed to be located within the boundaries of a Carbon Monoxide nonattainment area or maintenance area as specified in OAR 340-020-0115254-0040(1), the following Long Form Application information shall be submitted to the Department:

(a) All information required under section (1) of this rule;

(b) An estimate of the Average Daily Traffic, peak hour and peak eight hour traffic volumes for all roads, streets, and arterials within 1/4 mile of the Indirect Source and for all freeways and expressways within 1/2 mile of the nearest boundary of the Indirect Source for the time periods stated in subsection (1)(e) of this rule as they exist at the time of application;

(c) An estimate of the gross emissions of carbon monoxide, Volatile Organic Compounds, and oxides of nitrogen based on information required by subsections (1)(e) and (2)(b) of this rule;

(d) Estimated carbon monoxide at Reasonable Receptor and Exposure Sites. Estimates shall be made for the first, fifth, and tenth years after the Indirect Source and Associated Parking are completed or fully operational. Such estimates shall be made for the average and, if applicable, peak operating conditions.

(e) Evidence of the compatibility of the Indirect Source with any adopted transportation plan for the area;

(f) An estimate of the additional residential, commercial, and industrial developments which may occur concurrent with or as the result of the construction and use of the Indirect Source. This shall also include an air quality impact assessment of such development pursuant to subsection (2)(d) of this rule;

(g) A description of the Indirect Source Emission Control Program if such a program is necessary in order to be in compliance with the requirements of OAR 340-020-0130254-0070(5)(a), (b) and (c).

(3) Within 15 days after the receipt of an application for an Indirect Source Construction Permit or addition thereto, the Department or Regional Authority having jurisdiction shall advise the owner or operator of the Indirect Source in writing of any additional information required as a condition precedent to making a final determination to issue or deny a permit.

(4) An application shall not be considered complete until the required information is received by the Department or Regional Authority having jurisdiction. If no timely written request is made for additional information, the application shall be considered complete.

Stat. Auth.: ORS 468.020, ORS 468.065, ORS 468A.040 & ORS 468A.055

Stats. Implemented: ORS 468.020, ORS 468.065 & ORS 468A.040

Hist.: DEQ 81, f. 12-5-74, ef. 12-25-74; DEQ 86, f. 3-11-75, ef. 4-11-75; DEQ 110(Temp), f. & ef. 3-1-76 thru 7-14-76; DEQ 118, f. & ef. 8-11-76; DEQ 19-1978, f. & ef. 12-4-78; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0125.

340-020-0130254-0070

Issuance or Denial of Indirect Source Construction Permits

(1) Issuance of an Indirect Source Construction Permit shall not relieve the permittee from compliance with other applicable provisions of the Clean Air Act Implementation Plan for Oregon.

(2) Within 20 days after receipt of a complete permit application, the Department or Regional Authority having jurisdiction shall:

(a) Issue a 20 day notice and notify appropriate newspapers and any interested Person(s) who has requested to receive such notices in each region in which the proposed Indirect Source is to be constructed of the opportunity for written public comment on the information submitted by the applicant, the Department's evaluation of the proposed project, the Department's proposed decision, and the Department's proposed construction permit where applicable;

(b) Make publicly available in at least one location in each Department region in which the proposed Indirect Source would be constructed, the information submitted by the applicant, the Department's evaluation of the proposed project, the Department's proposed decision, and the Department's proposed construction permit where applicable.

(3) Within 60 days of the receipt of a complete permit application, the Department or Regional Authority having jurisdiction shall act to either disapprove a permit application or approve it with possible conditions.

(4) Conditions of an Indirect Source Construction Permit may include, but not be limited to:

(a) An Indirect Source Emission Control Program where it is necessary in order to be in compliance with the requirements of subsections (5)(a), (b), and (c) of this rule. The ISECP shall only contain control measures which have reasonably definable costs;

(b) Completion and submission of a Notice of Completion form prior to operation of the Indirect Source.

(5) An Indirect Source Construction Permit may be denied if:

(a) The Indirect Source will cause or contribute to a violation of the Clean Air Act Implementation Plan for Oregon;

(b) The Indirect Source will cause or contribute to a delay in the attainment of or cause or contribute to a violation of any National Ambient Air Quality Standard;

(c) The Indirect Source causes or contributes to any violation of any National Ambient Air Quality Standard by another Indirect Source or system of Indirect Sources;

(d) The applicable requirements for an Indirect Source Construction Permit application are not met.

(6) Any owner or operator of an Indirect Source operating without a permit required by this rule, or operating in violation of any of the conditions of an issued permit shall be subject to civil penalties and injunctions.

(7) Nothing in this rule shall preclude a Regional Authority authorized under OAR 340-020-0105~~254-0020~~ from setting the permit conditions for areas within its jurisdiction at levels more stringent than those detailed in ~~OAR 340-020-0100 through 340-020-0135~~this division.

(8) If the Department shall deny, revoke, or modify an Indirect Source Construction Permit, it shall issue an order setting forth its reasons in essential detail.

(9) An Indirect Source Construction Permit shall be applied for at least 90 days in advance of the anticipated start of construction.

Stat. Auth.: ORS 468.020, ORS 468.065, ORS 468A.040 & ORS 468A.055

Stats. Implemented: ORS 468.020, ORS 468.065 & ORS 468A.040

Hist.: DEQ 81, f. 12-5-74, ef. 12-25-74; DEQ 86, f. 3-11-75, ef. 4-11-75; DEQ 110(Temp), f. & ef. 3-1-76 thru 7-14-76; DEQ 118, f. & ef. 8-11-76; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0130.

340-020-0135254-0080

Permit Duration

(1) An Indirect Source Construction Permit issued by the Department or a Regional Authority having jurisdiction shall remain in effect until modified or revoked by the Department or such Regional Authority.

(2) The Department or Regional Authority having jurisdiction may revoke the permit of any Indirect Source operating in violation of the construction, modification, or operation conditions set forth in this permit.

(3) An approved permit may be conditioned to expire if construction or modification is not commenced within 18 months after receipt of the approved permit; and, in the case of a permit granted covering construction or modification in approved, planned incremental phases, a permit may be conditioned to expire as to any such phase as to which construction or modification is not commenced within 18 months of the time period stated in the initial permit for the commencing of construction of that phase. The Director may extend such time period upon a satisfactory showing by the permittee that an extension is justified.

Stat. Auth.: ORS 468.020, ORS 468.065, ORS 468A.040 & ORS 468A.055

Stats. Implemented: ORS 468.020, ORS 468.065 & ORS 468A.040

Hist.: DEQ 81, f. 12-5-74, ef. 12-25-74; DEQ 86, f. 3-11-75, ef. 4-11-75; DEQ 110(Temp), f. & ef. 3-1-76 thru 7-14-76; DEQ 118, f. & ef. 8-11-76; DEQ 17-1998, f. & cert. ef. 9-23-98; renumbered from OAR 340-020-0135.

DIVISION 256

MOTOR VEHICLES

340-024-0305256-0010

Definitions

As used in OAR 340-024-0300 through 340-024-0360: The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Basic test" means an inspection and maintenance program designed to measure exhaust emission levels during an unloaded idle or an unloaded raised idle mode as described in OAR ~~340-024-0309~~256-0340.

(2) "Carbon dioxide" means a compound consisting of the chemical formula (CO₂).

(3) "Carbon monoxide" means a compound consisting of the chemical formula (CO).

(4) "Certificate of Compliance" means a certification issued by a Private Business Fleet or a Public Agency Fleet Vehicle Emission Inspector or a Vehicle Emissions Inspector employed by the Department of Environmental Quality or an Independent Contractor that the vehicle identified on the certificate is equipped with the required functioning motor vehicle pollution control systems and otherwise complies with the emission control criteria, standards, and rules of the Commission.

(5) "Certified Repair Facility" means an automotive repair facility, possessing a current and valid certificate issued by the Department, that employs automotive technicians certified by the Department's Automotive Technician Emission Training Program (ATETP).

(6) "Commission" means the Environmental Quality Commission.

(7) "Crankcase emissions" means substances emitted directly to the atmosphere from any opening leading to the crankcase of a motor vehicle engine.

~~340-024-0005(18)~~ (8) "Dealer" means any person who is engaged wholly or in part in the business of buying, selling, or exchanging, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise, motor vehicles.

~~(89)~~ "Department" means the Department of Environmental Quality.

~~340-024-0005(2)~~ "Department" means Department of Environmental Quality.

~~(910)~~ "Diesel motor vehicle" means a motor vehicle powered by a compression-ignition internal combustion engine.

~~(1011)~~ "Director" means the director of the Department.

~~(1112)~~ "Electric vehicle" means a motor vehicle which uses a propulsive unit powered exclusively by electricity.

~~(1213)~~ "Emissions Inspection Station" means an inspection facility, operated by the Department of Environmental Quality or an Independent Contractor, for the purpose of conducting emissions inspections of all vehicles required to be inspected pursuant to this Division.

~~(1314)~~ "Enhanced test" means an inspection and maintenance program designed to measure exhaust and fuel evaporative system emissions levels using a loaded transient driving cycle and other measurement techniques as described in OAR ~~340-024-0312~~256-0350.

~~(1415)~~ "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.

~~(1516)~~ "Factory-installed motor vehicle pollution control system" means a motor vehicle pollution control system installed by the vehicle or engine manufacturer to comply with United States motor vehicle emission control laws and regulations.

~~(1617)~~ "Gas analytical system" means a device which measures the amount of contaminants in the exhaust emissions of a motor vehicle, and which has been issued a license by the Department pursuant to OAR ~~340-024-0350~~256-0450 and ORS 468A.380.

~~(1718)~~ "Gaseous fuel" means, but is not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous forms.

~~(1819)~~ "Gasoline motor vehicle" means a motor vehicle powered by a spark-ignition internal combustion engine.

~~(1920)~~ "GPM" means Grams Per Mile.

(2021) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

(2122) "Heavy duty motor vehicle" means any motor vehicle rated at more than 8500 pounds GVWR or that has an actual vehicle curb weight as delivered to the ultimate purchaser of 6000 pounds or over.

(2223) "Hydrocarbon gases" means a class of chemical compounds consisting of hydrogen and carbon.

(2324) "Idle speed" means the unloaded engine speed when accelerator pedal is fully released.

(2425) "Independent Contractor" means any person, business firm, partnership or corporation with whom the Department enters into an agreement providing for the construction, equipment, maintenance, personnel, management or operation of emissions inspection stations or activities pursuant to ORS 468A.370.

(2526) "Inspection and Maintenance Program (I/M) means a program of conducting regular inspections of motor vehicles, including measurement of air contaminants in the vehicle exhaust and an inspection of emission control systems, to identify vehicles that do not meet the standards of this Division or which have malfunctioning, maladjusted or missing emission control systems, and, when necessary, of requiring the repair or adjustment of vehicles to make the emission control systems function as intended and to reduce tailpipe emissions of air contaminants.

(2627) "In-use motor vehicle" means any motor vehicle which is not a new motor vehicle.

(2728) "Light duty motor vehicle" means any motor vehicle rated at 8500 pounds GVWR or less and has an actual vehicle curb weight as delivered to the ultimate purchaser of under 6000 pounds.

(29) "Medford-Ashland Air Quality Maintenance Area (AQMA) has the meaning given in OAR 340-204-0010.

(2830) "Model year" means the annual production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends. If the manufacturer does not designate a production period, the model year with respect to such vehicles or engines shall mean the 12-month period beginning January of the year in which production thereof begins.

(2931) "Motorcycle" means any motor vehicle, including mopeds, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground and having a mass of 680 kilograms (1500 pounds) or less with manufacturer recommended fluids and nominal fuel capacity included.

(3032) "Motor vehicle" means any self-propelled vehicle used for transporting persons or commodities on public roads.

~~340-024-0005 (3) "Motor Vehicle" means any self-propelled vehicle designed and used for transporting persons or property on a public street or highway.~~

(3132) "Motor vehicle pollution control system" means equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle, or a system or engine adjustment or modification which causes a reduction of pollutants emitted from the vehicle, or a system or device which inhibits the introduction of fuels which can adversely affect the overall motor vehicle pollution control system.

~~340-024-0005 (433) "Motor Vehicle Fleet Operation" means ownership, control, or management or any combination thereof by any person of five or more motor vehicles.~~

(3235) "New motor vehicle" means a motor vehicle whose equitable or legal title has never been transferred to a person who in good faith purchases the motor vehicle for purposes other than resale.

(3336) "Noise level" means the sound pressure level measured by use of metering equipment with an "A" frequency weighting network and reported as dBA.

(3437) "Owner" means the person having all the incidents of ownership in a vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement, or a lease for a term of ten or more successive days.

~~340-024-0005 (538) "Opacity" means the degree to which transmitted light is obscured, expressed in percent.~~

(3539) "Oxides of Nitrogen" or NO_x means oxides of nitrogen except nitrous oxides.

~~(36) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.~~

~~340-024-0005 (640) "Person" means any individual, public or private corporation, political subdivision, agency, board, department, or bureau of the state, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.~~

(41) "Portland Vehicle Inspection Area" has the meaning given in OAR 340-204-0010.

(3742) "PPM" means parts per million by volume.

(3843) "Private Business Fleet" means ownership by any person of 100 or more Oregon-registered, in-use, motor vehicles, excluding those vehicles held primarily for the purpose of resale.

(3944) "Private Business Fleet Vehicle Emissions Inspector" means any person employed on a full-time basis by a Private Business Fleet that possesses a current and valid license issued by the Department pursuant to OAR 340-024-0340256-0440 and ORS 468A.380.

(4045) "Propulsion exhaust noise" means that noise created in the propulsion system of a motor vehicle that is emitted into the atmosphere from any opening downstream from the exhaust ports. This definition does not include exhaust noise from vehicle auxiliary equipment such as refrigeration units powered by a secondary motor.

(4146) "Public Agency Fleet" means ownership of 50 or more government-owned vehicles registered pursuant to ORS 805.040.

(4247) "Public Agency Fleet Vehicle Emissions Inspector" means any person employed on a full-time basis by a Public Agency Fleet that possesses a current and valid license issued by the Department pursuant to OAR 340-024-0340256-0440 and ORS 468A.380.

(4348) "Public roads" means any street, alley, road, highway, freeway, thoroughfare, or section thereof used by the public or dedicated or appropriated to public use.

340-024-0005 (749) "Regional Authority" means a regional air quality control authority established under the provisions of ORS 468A.005 to 468A.035, 468A.075, 468A.100 to 468A.130, and 468A.140 to 468A.175.

340-024-0005 (850) "Ringlemann Smoke Chart" means the **Ringlemann Smoke Chart** with instructions for use as published in May, 1967, by the U.S. Department of Interior, Bureau of Mines.

(4451) "RPM" means engine crankshaft revolutions per minute.

(4552) "Two-stroke cycle engine" means an engine in which combustion occurs, within any given cylinder, once each crankshaft revolution.

(4653) "Vehicle Emission Inspector" means any person employed by the Department or an Independent Contractor that possesses a current and valid license issued by the Department pursuant to OAR 340-024-0340256-0440 and ORS 468A.380.

340-024-0005 (954) "Visible Emissions" means those gases or particulates, excluding uncombined water, which separately or in combination are visible upon release to the outdoor atmosphere.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 467.030 & ORS 468A.360

Stats. Implemented: ORS 467.030 & ORS 468A.350 - ORS 468A.400

Hist.: DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 139, f. 6-30-77, ef. 7-1-77; DEQ 9-1978, f. & ef. 7-7-78; DEQ 22-1979, f. & ef. 7-5-79; DEQ 18-1980, f. & ef. 6-25-80; DEQ 12-1982, f. & ef. 7-21-82; DEQ 23-1984, f. 11-19-84, ef. 4-1-85; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from 340-024-0305.

Visible Emissions

340-024-0010256-0100

Visible Emissions — General Requirements, Exclusions

(1) No person shall operate, drive, or cause or permit to be driven or operated any motor vehicle upon a public street or highway which emits into the atmosphere any visible emission.

(2) Excluded from this rule are those motor vehicles:

(a) Powered by compression ignition or diesel cycle engines;

(b) Excluded by written order of the Department by ORS 468A.075.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.360

Hist.: DEQ 8, f. 4-7-70, ef. 5-11-70; DEQ4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-024-0010.

340-024-0015256-0110

Visible Emissions — Special Requirements for Excluded Motor Vehicles

No person shall operate, drive, or cause or permit to be driven or operated upon a public street or highway, any motor vehicle excluded from OAR 340-024-0010256-0100 which:

(1) When operated at an elevation of 3,000 feet or less, emits visible emissions into the atmosphere:

(a) Of an opacity greater than 40 percent;

- (b) Of an opacity of ten percent or greater for a period exceeding seven consecutive seconds.
- (2) When operated at an elevation of over 3,000 feet, emits visible emissions into the atmosphere:
 - (a) Of an opacity greater than 60 percent;
 - (b) Of an opacity of 20 percent or greater for a period exceeding seven consecutive seconds.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.360

Hist.: DEQ 8, f. 4-7-70, ef. 5-11-70; renumbered from OAR 340-024-0015.

340-024-0020256-0120

Uncombined Water — Water Vapor

Where the presence of uncombined water is the only reason for failure of an emission to meet the requirements of OAR 340-024-0010256-0100 or 340-024-0015256-0110, such rules shall not apply.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.360

Hist.: DEQ 8, f. 4-7-70, ef. 5-11-70; renumbered from OAR 340-024-0020.

340-024-0025-256-0130

Motor Vehicle Fleet Operation

(1) The Department may, by written notice, require any motor vehicle fleet operation to certify annually that its motor vehicles are maintained in good working order, and if applicable, in accordance with motor vehicle manufacturer's specifications and maintenance schedule as may or tend to affect visible emissions. Records pertaining to observations, tests, maintenance, and repairs performed to control or reduce visible emissions from individual motor vehicles shall be available for review and inspection by the Department.

(2) The Department, by written notice, may require any motor vehicle of a motor vehicle fleet operation to be tested for compliance with OAR 340-024-0010256-0100 and 340-024-0015256-0110.

(3) A regional authority, within its territory, may perform the functions of the Department as set forth in sections (1) and (2) of this rule, upon written directive of the Department permitting such action.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.360

Hist.: DEQ 8, f. 4-7-70, ef. 5-11-70; renumbered from OAR 340-024-0025.

340-024-0030256-0140

Dealer Compliance

No dealer shall sell or offer for sale, exchange, or lease, any motor vehicle which operates in violation of OAR 340-024-0010256-0100 or 340-024-0015256-0110, except as permitted by federal regulations.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.360

Hist.: DEQ 8, f. 4-7-70, ef. 5-11-70; renumbered from OAR 340-024-0030.

340-024-0035256-0150

Method of Measurement

The opacity observation for purposes of OAR 340-024-0010256-0100 through 340-024-0030256-0140 shall be made by a person trained as an observer; provided, however, that a **Ringlemann Smoke Chart** may be used in measuring the opacity of emissions for purposes of OAR 340-024-0010256-0100 through 340-024-0030256-0140.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.360

Hist.: DEQ 8, f. 4-7-70, ef. 5-11-70; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-024-0035.

340-024-0040-256-0160

Alternative Methods of Measuring Visible Emissions

(1) The Department may permit the use of alternative methods of measurement to determine compliance with the visible emissions standards in OAR 340-024-0010256-0100 and 340-024-0015256-0110 when such alternative methods are demonstrated to be reproducible, selective, sensitive, accurate and applicable to a specific program.

(2) Any person desiring to utilize alternative methods of measurement shall submit to the Department such specifications and test data as the Department may require, together with a detailed specific program for utilizing the alternative methods. The Department shall require demonstration of the effectiveness and suitability of the program.

(3) No person shall undertake a program using an alternative method of measurement without having obtained prior written approval of the Department.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.360

Hist.: DEQ 8, f. 4-7-70, ef. 5-11-70; renumbered from OAR 340-024-0040.

Pertaining to Motor Vehicle Inspection Certification of Pollution Control Systems

340-024-0100-256-0200

County Designations

Pursuant to the requirements of ORS 468A.360, Clackamas, Columbia, Jackson, Marion, Multnomah, Washington and Yamhill counties are hereby designated by the Environmental Quality Commission as counties in which all motor vehicles registered therein, unless otherwise exempted by statute or by rules subsequently adopted by the Commission, shall be equipped with a motor vehicle pollution control system and shall comply with motor vehicle emission standards adopted by the Commission.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468A.390

Stats. Implemented: ORS 468A.390

Hist.: DEQ 51, f. 3-20-73, ef. 4-1-73; DEQ 62, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0100.

340-024-0200-256-0210

Criteria for Certification of Motor Vehicle Pollution Control Systems

Pursuant to the requirements of ORS 468A.365, the following are the criteria for certification of motor vehicle pollution control systems as defined by ORS 468A.350:

(1) A motor vehicle pollution control system which necessitates equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle shall not be certified.

(2) A motor vehicle pollution control system which necessitates modifications, other than adjustments, to the original design of the motor vehicle shall not be certified.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.365

Hist.: DEQ 66, f. 2-5-74, ef. 2-25-74; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-024-0200.

Motor Vehicle Emission Control Inspection Test Criteria, Methods, and Standards **Emission Control System Inspection**

340-024-0300-256-0300

Scope

Pursuant to ORS 467.030, 468A.350 to 468A.400, 803.350, and 815.295 to 815.325, OAR ~~340-024-0300~~256-0300 through ~~340-024-0350~~256-0460 establish the criteria, methods, and standards for inspecting motor vehicles to determine eligibility for obtaining a Certificate of Compliance or inspection.

(1) After September 1, 1997, in addition to the basic test, an enhanced test may be established in the Portland Vehicle Inspection Area.

(a) A light duty vehicle that is five (5) or less model years old or is a 1975 through 1980 model year is required to meet the basic test requirements of OAR ~~340-024-0309~~256-0340, ~~340-024-0320~~256-0380, ~~340-024-0330~~256-0400 and ~~340-024-0337~~256-0430.

(b) A light duty vehicle that is six (6) or more model years old and is a 1981 or newer model year is required to meet the enhanced test requirements of OAR ~~340-024-0312~~256-0350 and ~~340-024-0332~~256-0410. These vehicles found to be safe but unable to be dynamometer tested due to drive line configuration and these vehicles equipped with All Wheel Drive (AWD)

shall meet the basic test requirements of OAR ~~340-024-0309256-0340~~, ~~340-024-0320256-0380~~, ~~340-024-0330256-0400~~ and ~~40-024-0337256-0430~~

(c) A heavy duty vehicle is required to meet the basic test requirements of OAR ~~340-024-0309256-0340~~, ~~340-024-0325256-0390~~ and ~~340-024-0335256-0420~~.

(2) A basic test shall continue in the Medford-Ashland Air Quality Maintenance Area for vehicles to meet the requirement of OAR ~~340-024-0309256-0340~~, ~~340-024-0320256-0380~~, ~~340-024-0325256-0390~~, ~~340-024-0330256-0400~~ and ~~340-024-0335256-0420~~.

(3) For vehicle registrations that expire between 2/1/98 and 1/31/2000, vehicle owners may apply for a one-time waiver from the enhanced test requirements in OAR ~~340-024-0300256-0300~~ (1)(b) and ~~340-024-0312256-0350~~. Vehicle owners are eligible if their net household income is within the established income levels based on household size: [Chart not included. See ED. NOTE.] If the Department approves the waiver, the owner must pass the basic motor vehicle emissions test requirements in OAR ~~340-24-0300256-0300~~ (2) and ~~340-24-0309256-0340~~ and pay the required fees in order to receive a certificate of compliance

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

[ED. NOTE: The Chart referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 467.030 & ORS 468A.350 - ORS 468A.400

Stats. Implemented: ORS 468A.350 - ORS 468A.400, ORS 803.350 & ORS 815.295

Hist.: DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 139, f. 6-30-77, ef. 7-1-77; DEQ 23-1984, f. 11-19-84, ef. 4-1-85; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1996, f. & cert. ef. 11-26-96; DEQ 2-1998, f. & cert. ef. 3-5-98; renumbered from OAR 340-024-0300.

340-024-0306256-0310

Government-Owned Vehicle, Permanent Fleet Vehicle and United States Government Vehicle Testing Requirements

(1) All motor vehicles registered as government-owned vehicles under ORS 805.040 which are required to be certified pursuant to ORS 815.300 shall, as means of that certification, obtain a Certificate of Compliance.

(a) Government-owned vehicles in a fleet of 50 or more vehicles must be certified annually.

(b) Government-owned vehicles in a fleet of less than 50 vehicles must be certified bi-annually.

(2) All motor vehicles registered as permanent fleet vehicles under ORS 805.120 which are required to be certified pursuant to ORS 803.350 and 815.295 to 815.325 shall, as means of that certification, obtain a Certificate of Compliance.

(3) Any motor vehicle which is to be registered under ORS 805.040 or 805.120, but is not a new motor vehicle, shall obtain a Certificate of Compliance prior to that registration as required by ORS 803.350 and 815.295 to 815.325.

(4) All motor vehicles owned by the United States Government and operated in the Portland Vehicle Inspection Area or the Medford-Ashland Air Quality Maintenance Area (AQMA) shall annually obtain a Certificate of Compliance.

(a) United States Government tactical military vehicles are not required to be certified.

(b) Federal installations located within the Portland Area Vehicle Inspection Program and the Medford-Ashland AQMA must provide a listing to the Department of all federal employee-owned vehicles operated on the installation and demonstrate that these vehicles have complied with this Division. Inspection results shall be reported to the Department on a quarterly basis and the list is be updated annually.

(5) For the purposes of providing a staggered certification schedule for vehicles registered as government-owned vehicles under ORS 805.040 or permanent fleet vehicles under ORS 805.120, such schedule shall, except as provided by section (6) of this rule, be on the basis of the final numerical digit contained on the vehicle license plate. Such certification shall be completed by the last day of the month as provided below (last digit and month or year, respectively) :

(a) 1 — January;

(b) 2 — February;

(c) 3 — March;

(d) 4 — April;

(e) 5 — May;

(f) 6 — June;

(g) 7 — July;

(h) 8 — August;

(i) 9 — September;

(j) 0 — October;

(k) even — even numbered years for vehicles that are tested bi-annually;

(l) odd — odd numbered years for vehicles that are tested bi-annually.

(6) In order to accommodate a fleet's scheduled maintenance practices, the Department may establish a specific separate schedule for vehicles registered as government-owned vehicles under ORS 805.040 or permanent fleet vehicles under ORS 805.120 if these vehicles are owned by a Public Agency Fleet or Private Business Fleet licensed under OAR 340-024-0340256-0440.

(7) Every agency or organization owning vehicles described in this rule shall annually report, in either electronic or printed form, to the Department the following information:

(a) The vehicle make;

(b) The vehicle model;

(c) The vehicle identification number (VIN) ;

(d) The number of Certificates of Compliance issued; and

(e) The date on which the motor vehicles were issued Certificates of Compliance.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A.360 & ORS 468A.363

Stats. Implemented: ORS 468A.365 - ORS 468A.385

Hist.: DEQ 3-1978, f. 3-1-78, ef. 4-1-78; DEQ 19-1983, f. 11-29-83, ef. 12-31-83; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0306.

340-024-0307256-0320

Motor Vehicle Inspection Program Fee Schedule

This rule sets out the fee schedule for Certificates of Compliance, and licenses issued by the Department of Environmental Quality, Vehicle Inspection Program:

(1) The cost of each Certificate of Compliance issued at an Emissions Inspection Station:

(a) In the Portland Vehicle Inspection Area will be a maximum of \$21; or

(b) In the Medford-Ashland Air Quality Maintenance Area will be a maximum of \$10.

(2) The cost of each Certificate of Compliance issued by a Private Business Fleet or Public Agency Fleet:

(a) In the Portland Vehicle Inspection Area will be a maximum of \$10; or

(b) In the Medford-Ashland Air Quality Maintenance Area will be a maximum of \$5.

(3) The cost of each License issued to a Private Business Fleet or Public Agency Fleet is as follows:

(a) Initial \$5;

(b) Annual renewal \$1.

(4) The cost of each License issued to a Private Business Fleet or Public Agency Fleet Vehicle Emission Inspector is as follows:

(a) Initial \$5;

(b) Annual renewal \$1.

(5) The cost of each License issued for a Gas Analytical System is as follows:

(a) Initial \$5;

(b) Annual renewal \$1.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A.400

Stats. Implemented: ORS 468A.400

Hist.: DEQ 20-1981, f. 7-28-81, ef. 8-1-81; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0307.

340-024-0308256-0330

Department of Defense Personnel Participating in the Privately Owned Vehicle Import Control Program

(1) U.S. Department of Defense (DOD) personnel participating in the DOD Privately Owned Vehicle (POV) Import Control Program operating a 1975 or newer model year vehicle, are exempt from the prohibition of ORS 815.305 insofar as it pertains to catalytic converter systems, and, if applicable, exhaust gas oxygen (O₂) sensor(s), if one of the following conditions is met:

(a) The vehicle will be driven to the port and surrendered for export under the above program within ten working days of disconnection, deactivation, or inoperability of the catalytic converter system or exhaust gas oxygen (O₂) sensor(s); or

(b) The reconnection, reactivation, or reoperability of the catalytic converter systems and exhaust gas oxygen (O₂) sensor(s), is made within 10 working days from the time the owner picked up the vehicle at the port.

(2) Persons disconnecting, deactivating or rendering inoperable any catalytic converter system or exhaust gas oxygen (O₂) sensor(s) on 1975 or newer model year vehicle of DOD personnel participating in the DOD POV Import Control Program which will be driven to the port and surrendered for exportation under said program within ten working days are exempt from the prohibition of ORS 815.305.

(3) Unless otherwise exempt under this Division, vehicles must be configured as a vehicle certified by the EPA for sale and use within the United States pursuant to **40 CFR, part 86, subpart A**.

(4) Documentation shall be kept with the vehicle at all times while the vehicle is operated in the United States which provides sufficient information to demonstrate compliance with all appropriate qualifications and conditions of this exemption, including the following:

(a) The unique vehicle identification number (VIN) of the subject vehicle;

(b) The agency or organization which employs the owner of the subject vehicle;

(c) The country to which the owner of the subject vehicle is being transferred;

(d) The date(s) when applicable alterations were performed on the subject vehicle;

(e) The date when the subject vehicle is scheduled to be delivered to the appropriate port for shipment out of the United States; and

(f) The date when the subject vehicle is picked up from the port of importation upon returning to the United States.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A.360

Stats. Implemented: ORS 468A.350 - ORS 468A.400

Hist: DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0308.

40-024-0309256-0340

Light Duty Motor Vehicle and Heavy Duty Gasoline Motor Vehicle Emission Control Test Method for Basic Program

(1) General Requirements:

(a) Vehicles having coolant, oil or fuel leaks or any other such defect that is unsafe to allow the emission test to be conducted shall be rejected from the testing area. The Inspector is prohibited from conducting the emissions test until the defects are corrected.

(b) The vehicle transmission is to be placed in neutral gear if equipped with a manual transmission, or in park position if equipped with an automatic transmission. The hand or parking brake is to be engaged. If the brake is found to be defective, then wheel chocks are to be placed in front and/or behind the vehicle's tires.

(c) All accessories are to be turned off.

(d) The Inspector must insure that the motor vehicle is equipped with the required functioning motor vehicle pollution control system in accordance with the criteria of OAR 340-024-0320256-0380 or OAR 340-024-0325256-0390. For vehicles not meeting this criteria upon completion of the testing process, the Inspector shall issue a report to the driver stating all reasons for noncompliance.

(e) Exhaust gas sampling algorithm. The analysis of exhaust gas concentrations will begin 10 seconds after the applicable test mode begins. Exhaust gas concentrations will be analyzed at a rate of two times per second. The measured value for pass/fail determinations will be a simple running average of the measurements taken over five seconds.

(f) Pass/fail determinations. A pass or fail determination will be made for each applicable test mode based on a comparison of the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420 and the measured value for HC and CO and described in subsection (1)(a) of this rule. A vehicle will pass the test mode if any pair of simultaneous values for HC and CO are below or equal to the applicable standards. A vehicle will fail the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above the applicable standards.

(g) Void test conditions. The test will immediately end and any exhaust gas measurements will be voided if the measured concentration of CO plus CO₂ falls below the applicable standards listed in OAR 340-024-0320256-0380 and OAR 340-024-25256-0390 or the vehicle's engine stalls at any time during the test sequence.

(h) Multiple exhaust pipes. Exhaust gas concentrations from vehicle engines equipped with multiple exhaust pipes will be sampled simultaneously.

(i) The test will be immediately terminated upon reaching the overall maximum test time.

(2) Test sequence.

(a) The test sequence will consist of a first-chance test and a second chance test as follows:

(A) The first-chance test, as described in section (3) of this rule, will consist of an idle mode followed by a high-speed mode.

(B) The second-chance high-speed mode, as described in section (3) of this rule, will immediately follow the first-chance high-speed mode. It will be performed only if the vehicle fails the first-chance test. The second-chance idle mode, as described in section (4) of this rule, will follow the second chance high speed mode and be performed only if the vehicle fails the idle mode of the first-chance test.

(b) The test sequence will begin only after the following requirements are met:

(A) The vehicle will be tested in as-received condition with the transmission in neutral or park and all accessories turned off. The engine will be at normal operating temperature (as indicated by a temperature gauge, temperature lamp, touch test on the radiator hose, or other visual observation for overheating).

(B) The tachometer will be attached to the vehicle in accordance with the analyzer manufacturer's instructions.

(C) The sample probe will be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension will be used.

(D) The measured concentration of CO plus CO₂ will be greater than or equal to the applicable standards listed in OAR 340-024-0320256-0380 and OAR 340-024-0325256-0390.

(3) First-chance test and second-chance high-speed mode. The test timer will start ($tt=0$) when the conditions specified in section (2)(b) of this rule are met. The first-chance test and second-chance high-speed mode will have an overall maximum test time of 390 seconds ($tt=390$). The first-chance test will consist of an idle mode following immediately by a high-speed mode. This is followed immediately by an additional second-chance high-speed mode, if necessary.

(a) First-chance idle mode.

(A) Except for diesel vehicles, the mode timer will start ($mt=0$) when the vehicle engine speed is between 550 and 1300 rpm. If engine speed exceeds 1300 rpm or falls below 550 rpm, the mode timer will reset to zero and resume timing. The minimum idle mode length will be determined as described in section (3)(a)(B) of this rule. The maximum idle mode length will be 30 seconds ($mt=30$) elapsed time.

(B) The pass/fail analysis will begin after an elapsed time of 10 seconds ($mt=10$). A pass or fail determination will be made for the vehicle and the mode terminated as follows:

(i) The vehicle will pass the idle mode and the mode will be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), measured values are less or equal to the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420.

(ii) The vehicle will fail the idle mode and the mode will be terminated if the provisions of section (3)(a)(B)(i) of this rule is not satisfied within an elapsed time of 30 seconds ($mt=30$).

(iii) The vehicle may fail the first-chance and second-chance test will be omitted if no exhaust gas concentration less than 1800 ppm HC is found by an elapsed time of 30 seconds ($mt=30$).

(b) First-chance and second-chance high-speed modes. This mode includes both the first-chance and second-chance high-speed modes, and follows immediately upon termination of the first-chance idle mode.

(A) Except for diesel vehicles, the mode timer will reset ($mt=0$) when the vehicle engine speed is between 2200 and 2800 rpm. If engine speed falls below 2200 rpm or exceeds 2800 rpm for more than two seconds in one excursion, or more than six seconds over all excursions within 30 seconds of the final measured value used in the pass/fail determination, the measured value will be invalidated and the mode continued. If any excursion lasts for more than ten seconds, the mode timer will reset to zero ($mt=0$) and timing resumed. The minimum high-speed mode length will be determined as described under paragraphs (3)(b)(B) and (C) of this rule. The maximum high-speed mode length will be 180 seconds ($mt=180$) elapsed time.

(B) Ford Motor Company and Honda vehicles. For 1981-1987 model year Ford Motor Company vehicles and 1984-1985 model year Honda Preludes, the pass/fail analysis will begin after an elapsed time of 10 seconds ($mt=10$) using the following procedure.

(i) A pass or fail determination, as described below, will be used, for vehicles that passed the idle mode, to determine whether the high-speed test should be terminated prior to or at the end of an elapsed time of 180 seconds ($mt=180$).

(I) The vehicle will pass the high-speed mode and the test will be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), the measured values are less than or equal to the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420.

(II) Restart. If at an elapsed time of 30 seconds (mt=30) the measured values are greater than the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420, the vehicle's engine will be shut off for not more than 10 seconds after returning to idle and then will be restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. The mode timer will stop upon engine shut off (mt=30) and resume upon engine restart. The pass/fail determination will resume as follows after 40 seconds have elapsed (mt=40).

(III) The vehicle will pass the high-speed mode and the test will be immediately terminated if, at any point between an elapsed time of 40 seconds (mt=40) and 60 seconds (mt=60), the measured values are less than or equal to the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420.

(IV) The vehicle will pass the high-speed mode and the test will be immediately terminated if, at a point between an elapsed time of 60 seconds (mt=60) and 180 seconds (mt=180) both HC and CO emissions continue to decrease and measured values are less than or equal to the applicable standards listed in OAR 340-024-0330256-0400 or OAR 340-024-0335256-0420.

(V) The vehicle will fail the high-speed mode and the test will be terminated if neither of sections (3)(b)(B)(i)(I), (III) or (IV) of this rule is not satisfied by an elapsed time of 180 seconds (mt=180).

(ii) A pass or fail determination will be made for vehicles that failed the idle mode and the high-speed mode terminated at the end of an elapsed time of 180 seconds (mt=180) as follows:

(I) The vehicle will pass the high-speed mode and the mode will be terminated at an elapsed time of 30 seconds (mt=30) if any measured values of HC and CO exhaust gas concentrations during the high-speed mode are less than or equal to the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420.

(II) Restart. If at an elapsed time of 30 seconds (mt=30) the measured values of HC and CO exhaust gas concentrations during the high-speed mode are greater than the applicable short test standards as described in subsection (1)(b) of this rule, the vehicle's engine will be shut off for not more than 10 seconds after returning to idle and then will be restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. The mode timer will stop upon engine shut off (mt=30) and resume upon engine restart. The pass/fail determination will resume as follows after 40 seconds (mt=40) have elapsed.

(III) The vehicle will pass the high-speed mode and the mode will be terminated at an elapsed time of 60 seconds (mt=60) if any measured values of HC and CO exhaust gas concentrations during the high-speed mode are less than or equal to the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420.

(IV) The vehicle will pass the high-speed mode and the test will be immediately terminated if, at a point between an elapsed time of 60 seconds (mt=60) and 180 seconds (mt=180) both HC and CO emissions continue to decrease and measured values are less than or equal to the applicable standards listed in OAR 340-024-0330256-0400 or OAR 340-024-0335256-0420.

(V) The vehicle will fail the high-speed mode and the test will be terminated if neither of sections (3)(b)(B)(ii)(I), (III) or (IV) of this rule is satisfied by an elapsed time of 180 seconds (mt=180).

(C) All other light-duty vehicles. The pass/fail analysis for vehicles not specified in section (3)(b)(B) of this rule will begin after an elapsed time of 10 seconds (mt=10) using the following procedure.

(i) A pass or fail determination will be used for 1981 and newer model year vehicles that passed the idle mode, to determine whether the high-speed mode should be terminated prior to or at the end of an elapsed time of 180 seconds (mt=180). For pre-1981 model year vehicles, no high speed idle mode test will be performed.

(I) The vehicle will pass the high-speed mode and the test will be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), the measured values are less than or equal to the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420.

(II) The vehicle will pass the high-speed mode and the test will be immediately terminated if emissions continue to decrease after an elapsed time of 30 seconds (mt=30) and if, at any point between an elapsed time of 30 seconds (mt=30) and 180 seconds (mt=180), the measured values are less than or equal to the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420.

(III) The vehicle will fail the high-speed mode and the test will be terminated if neither the provisions of section (3)(b)(C)(i)(I) or (II) of this rule is satisfied.

(ii) A pass or fail determination will be made for 1981 and newer model year vehicles that failed the idle mode and the high-speed mode terminated prior to or at the end of an elapsed time of 180 seconds (mt=180). For pre-1981 model year vehicles, the duration of the high speed idle mode will be 30 seconds and no pass or fail determination will be used at the high speed idle mode.

(I) The vehicle will pass the high-speed mode and the mode will be terminated at an elapsed time of 30 seconds (mt=30) if any measured values are less than or equal to the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420.

(II) The vehicle will pass the high-speed mode and the test will be immediately terminated if emissions continue to decrease after an elapsed time of 30 seconds (mt=30) and if, at any point between an elapsed time of 30 seconds (mt=30) and 180 seconds (mt=180), the measured values are less than or equal to the applicable standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420.

(III) The vehicle will fail the high speed mode and test will be terminated if neither the provisions of section (3)(b)(C)(ii)(I) or (II) is satisfied.

(4) Second-chance idle mode. If the vehicle fails the first-chance idle mode and passes the high-speed mode, the mode timer will reset to zero (mt=0) and a second chance idle mode will commence. The second-chance idle mode will have an overall maximum mode time of 30 seconds (mt=30). The test will consist on an idle mode only.

(a) The engines of 1981-1987 Ford Motor Company vehicles and 1984-1985 Honda Preludes will be shut off for not more than 10 seconds and restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure.

(b) Except for diesel vehicles, the mode timer will start (mt=0) when the vehicle engine speed is between 550 and 1300 rpm. If the engine speed exceeds 1300 rpm or falls below 550 rpm the mode timer will reset to zero and resume timing. The minimum second-chance idle mode length will be determined as described in section (4)(c) of this rule. The maximum second-chance idle mode length will be 30 seconds (mt=30) elapsed time.

(c) The pass/fail analysis will begin after an elapsed time of 10 seconds (mt=10). A pass or fail determination will be made for the vehicle and the second-chance mode will be terminated as follows:

(A) The vehicle will pass the second-chance idle mode and the test will be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), any measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle will pass the second-chance idle mode and the test will be terminated at the end of an elapsed time of 30 seconds (mt=30) if, prior to that time, the criteria of paragraph (4)(c)(A) of this rule are not satisfied and the measured values during the time period between 25 and 30 seconds (mt=25-30) are less than or equal to the applicable short test standards listed in OAR 340-024-0330256-0400 and OAR 340-024-0335256-0420.

(C) The vehicle will fail the second-chance idle mode and the test will be terminated if neither of the provisions of sections (4)(c)(A) or (B) of this rule are satisfied by an elapsed time of 30 seconds (mt=30).

(5) If the vehicle is capable of being operated with both gasoline and gaseous fuels, then the steps in section (2) of this rule are to be followed so that emission test results are obtained from both fuels.

(6) The Inspector must remove the fuel cap from the vehicle and test it to insure the cap is capable of properly sealing the fuel tank's fumes. The Inspector must insert the cap onto a container with fittings representing that of the vehicle's fuel filler pipe. The container will be pressurized with inert gas to detect any leaks. The gas cap leak test standard will be equivalent to the United States Environmental Protection Agency (EPA) leak down standard; however, the time for leak down or the leak detection method may vary from the EPA specified time and method. The provisions of this section will apply only within the Portland Vehicle Inspection Area.

(7) If it is judged that the vehicle may be emitting propulsion exhaust noise in excess of the noise standards of OAR 340-024-0337256-0430, adopted pursuant to ORS 467.030, then a noise measurement is to be conducted and recorded while the engine is at the speed specified in section (3)(b)(A) of this rule. A reading from each exhaust outlet shall be recorded at the raised engine speed. This provision for noise inspection shall apply only within the Portland Vehicle Inspection Area.

(8) If it is determined that the vehicle complies with OAR 340-024-0320256-0380 through 340-024-0337256-0430, and ORS 467.030, 468A.350 through 468A.400, 803.350 and 815.295 through 815.325, then, following receipt of the required fees, the Private Business Fleet Vehicle Emission Inspector, Public Agency Fleet Vehicle Emission Inspector or Vehicle Emission Inspector shall issue the required Certificate of Compliance.

[NOTE: This rule, excluding section (6) is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A.360

Stats. Implemented: ORS 468A.350 - ORS 468A.385

Hist.: DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0309.

340-024-0312256-0350

Light Duty Motor Vehicle Emission Control Test Method for Enhanced Program

(1) General Requirements.

(a) Data Collection. The following information shall be determined for the vehicle being tested and used to automatically select the dynamometer inertia and power absorption settings:

(A) Vehicle type: LDPC, LDT1 or LDT2;

(B) Chassis model year;

(C) Make;

(D) Model;

(E) Gross vehicle weight rating; and

(F) Number of cylinders, or cubic inch displacement of the engine.

(b) Ambient Conditions. The ambient temperature, absolute humidity, and barometric pressure shall be recorded continuously during the transient driving cycle or as a single set of readings up to 4 minutes before the start of the transient driving cycle.

(c) Restart. If shut off, the vehicle shall be restarted as soon as possible before the test and shall be running at least 30 seconds prior to the transient driving cycle.

(2) Pre-inspection and Preparation.

(a) Accessories. The Inspector must insure that all accessories (air conditioning, heat, defogger, radio, automatic traction control if switchable, etc.) will be turned off.

(b) Leaks. The vehicle shall be inspected for exhaust leaks. Vehicles with leaking exhaust systems shall be rejected from testing. Vehicles having coolant, oil or fuel leaks or any other such defect that is unsafe to allow the emission test to be conducted shall be rejected from the testing area. The Inspector is prohibited from conducting the emission test until the defects are corrected.

(c) Operating Temperature. Vehicles in overheated condition shall be rejected from testing.

(d) Tire Condition. Vehicles will be rejected from testing if the tire cords, or bubbles, cuts, or other damage are visible. Vehicles will be rejected that have space-saver spare tires on the drive axle. Vehicles may be rejected that do not have reasonably sized tires. Vehicle tires will be visually checked for adequate pressure level. Drive wheel tires that appear low will be inflated to approximately 30 psi, or to tire sidewall pressure, or manufacturers recommendations.

(e) Ambient Background. Background concentrations of hydrocarbons, carbon monoxide, oxides of nitrogen, and carbon dioxide (HC, CO, NO_x, and CO₂, respectively) will be sampled to determine background concentration of constant volume sampler dilution air. The sample will be taken for a minimum of 15 seconds within 120 seconds of the start of the transient driving cycle, using the same analyzers used to measure tailpipe emissions. Average readings over the 15 seconds for each gas will be recorded in the test record. Testing will be prevented until the average ambient background levels are less than 20 ppm HC, 35 ppm CO, and 2 ppm NO_x.

(f) Sample System Purge. While a lane is in operation, the CVS will continuously purge the CVS hose between tests, and the sample system will be continuously purged when not taking measurements.

(g) Negative Values. Negative gram per second readings will be integrated as zero and recorded as such.

(3) Equipment Positioning and Setting.

(a) Roll Rotation. The vehicle will be maneuvered onto the dynamometer with the drive wheels positioned on the dynamometer rolls. Prior to test initiation, the rolls will be rotated until the vehicle laterally stabilizes on the dynamometer. Drive wheel tires will be dried if necessary to prevent slippage during the initial acceleration.

(b) Purge Equipment. After the vehicle is positioned on the dynamometer, the vehicle gas cap is removed. A replacement cap with a ported hole through the cap is installed on the vehicle and the tubing to duct Helium to vehicle is connected to the port on the replacement cap. Helium flow into the cap is computer controlled to match the timing of the transient driving cycle. The evaporative canister purge will be measured during the transient driving cycle by inputting Helium under pressure into the test vehicle's fuel tank. Helium is measured in the vehicle exhaust with a detection device and accumulated volume of Helium is compared with the standard of 0.45 liters of Helium to determine pass/fail.

(c) Cooling System. Testing will not begin until the test-cell cooling system is positioned and activated. The cooling system will be positioned to direct air to the vehicle cooling system, but will not be directed at the catalytic converter.

(d) Vehicle Restraint. Testing will not begin until the vehicle is restrained. In addition, the parking brake will be set for front wheel drive vehicles prior to the start of the test.

(e) Dynamometer Settings. Dynamometer power absorption and inertia weight settings will be automatically chosen from an EPA supplied electronic look-up table that will be referenced based upon the vehicle identification information obtained in section (1)(a) of this rule. Vehicles not listed will be tested using default power absorption and inertia settings as follows:

Vehicle Type	Number of Cylinders	Actual Road Load Horsepower	Test Inertia Weight
All	3	8.3	2000
All	4	9.4	2500
All	5	10.3	3000
All	6	10.3	3000
LDPC	8	11.2	3500
LDT	8	12.0	4000
LDPC	10	11.2	3500
LDT	10	12.7	4500
LDPC	12	12.0	4000
LDT	12	13.4	5000

(f) Exhaust Collection System. The exhaust collection system will be positioned to insure complete capture of the entire exhaust stream from the tailpipe during the transient driving cycle.

(4) Vehicle Emission Test Sequence.

(a) Transient Driving Cycle. The Oregon enhanced test cycle consists of a single 31 second symmetrical peak with a maximum speed of 30.1 miles per hour (MPH). If the vehicle exceeds the emission standards established in OAR 340-024-0332256-0410, additional cycles up to a maximum of four (4) will be driven. If the vehicle passes the standards during any of the four cycles, the test will be terminated. After receipt of the required fees, the Inspector will issue the required Certificate of Compliance. If after four cycles the vehicle still has not passed the test, an algorithm is used to extrapolate the emission readings through a sixth testing cycle. If the algorithm shows the vehicle meets the standards in the hypothetical sixth cycle, the vehicle will pass the enhanced emissions test. The extrapolation algorithm consists of extrapolating the emissions readings linearly from the first four cycles to the hypothetical sixth cycle using least squares regression line. The vehicle will be driven over the following cycle:

Time/Second — Speed/MPH

0 Seconds — 0.0 MPH	16 — 28.5
1 — 0.0	17 — 29.5
2 — 0.0	18 — 30.1
3 — 0.0	19 — 30.0
4 — 0.0	20 — 29.7
5 — 0.0	21 — 29.3
6 — 2.6	22 — 28.8
7 — 5.9	23 — 28.0
8 — 9.2	24 — 25.0
9 — 12.5	25 — 21.7
10 — 15.8	26 — 18.4
11 — 19.0	27 — 15.1
12 — 21.5	28 — 11.8
13 — 23.7	29 — 8.5
14 — 25.6	30 — 5.2
15 — 27.2	31 — 1.9

(b) Driving Trace. The Inspector will follow an electronic, visual depiction of the time/speed relationship of the transient driving cycle (hereinafter, the trace). The visual depiction of the trace will be of sufficient magnification and adequate detail to allow accurate tracking by the Inspector and will permit the Inspector to anticipate upcoming speed changes. The trace will also clearly indicate gear shifts as specified in section(4)(c) of this rule.

(c) Shift Schedule. For vehicles with manual transmissions, Inspectors will shift gears according to the following shift schedule:

Shift Sequence GEAR	Speed Miles Per Hour	Nominal Cycle Time Seconds
1 - 2	15	10.0
2 - 3	25	14.0
De-clutch	15	27.0

Gear shifts will occur at the points in the driving cycle where the specified speeds are obtained.

(d) Speed Excursion Limits. Speed excursion limits will apply as follows:

(A) The upper limit is 2 mph higher than the highest point on the trace within 1 second of the given time.

(B) The lower limit is 2 mph lower than the lowest point on the trace within 1 second of the given time.

(C) Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided they occur for no more than 2 seconds on any occasion.

(D) Speeds lower than those prescribed during accelerations are acceptable provided the vehicle is operated at maximum available power during such accelerations until the vehicle speed is within the excursion limits.

(E) Exceedances of the limits in (A) through (C) of this section will automatically result in a void test. The station manager can override the automatic void of a test if the manager determines that the conditions specified in section (4)(d)(D) of this rule occurred. Tests will be aborted if the upper excursion limits are exceeded. Tests may be aborted if the lower limits are exceeded.

(e) Speed Variation Limits.

(A) A linear regression of feedback value on reference value will be performed on each transient driving cycle for each speed using the method of least squares, with the best fit equation having the form:

$y = mx + b$, where:

(i) y = The feedback (actual) value of speed;

(ii) m = The slope of the regression line;

(iii) x = The reference value; and

(iv) b = The y-intercept of the regression line.

(B) The standard error of estimate (SE) of y on x will be calculated for each regression line. A transient driving cycle lasting the full 31 seconds that exceeds the following criteria will be void and the test will be repeated:

(i) SE = 2.0 mph maximum.

(ii) $m = 0.96 - 1.01$.

(iii) $r^2 = 0.97$ minimum.

(iv) $b = \pm 2.0$ mph.

(f) Distance Criteria. The actual distance traveled for the transient driving cycle and the equivalent vehicle speed (i.e., roll speed) will be measured. If the absolute difference between the measured distance and the theoretical distance for the actual test exceeds 0.05 miles, the test will be void.

(g) Vehicle Stalls. Vehicle stalls during the test will result in a void and a new test. Three (3) stalls will result in test failure or rejection from testing.

(h) Dynamometer Controller Check. For each test, the measured horsepower, and inertia if electric simulation is used, will be integrated from 55 seconds to 81 seconds (divided by 26 seconds), and compared with the theoretical road-load horsepower (for the vehicle selected) integrated over the same portion of the cycle. The same procedure will be used to integrate the horsepower between 189 seconds to 201 seconds (divided by 12 seconds). The theoretical horsepower will be calculated based on the observed speed during the integration interval. If the absolute difference between the theoretical horsepower and the measured horsepower exceeds 0.5 hp, the test will be void. Alternate error checking methods may be used if shown to be equivalent.

(i) Inertia Weight Selection. Operation of the inertia weight selected for the vehicle will be verified as specified in OAR 340-024-0357256-0460. For systems employing electrical inertia simulation, an algorithm identifying the actual inertia force applied during the transient driving cycle will be used to determine proper inertia simulation. For all dynamometers, if the observed inertia is more than 1% different from the required inertia, the test will be void.

(j) Constant Volume Sampling (CVS) Operation. The CVS operation will be verified for each test for a Critical Flow Venturi (CFV) type CVS by measuring either the absolute pressure difference across the venturi or measuring the blower vacuum behind the venturi for minimum levels needed to maintain choke flow for the venturi design. The operation of an Subsonic Venturi (SSV) type CVS will be verified throughout the test by monitoring the difference in pressure between upstream and throat pressure. The minimum values will be determined from system calibrations. Monitored pressure differences below the minimum values will void the test.

(k) Fuel Economy. For each test, the health of the overall analysis system will be evaluated by checking a test vehicle's fuel economy for reasonableness, relative to upper and lower limits, representing the range of fuel economy values normally encountered for the test inertia and horsepower selected. For each inertia selection, the upper fuel economy limit will be determined using the lowest horsepower setting typically selected for the inertia weight, along with statistical data, test experience, and engineering judgment. A similar process for the lower fuel economy limit will be used with the highest horsepower setting typically selected for the inertia weight. For test inertia selections where the range of horsepower settings is greater than 5 horsepower, at least two sets of upper and lower fuel economy limits will be determined and appropriately used for the selected test inertia. Tests with fuel economy results in excess of 1.5 times the upper limit will result in a void test.

(5) Emission Measurements.

(a) Exhaust Measurement. The emission analysis system will sample and record dilute exhaust HC, CO, CO₂, and NO_x during the transient driving cycle.

(b) Purge Measurement. The analysis system will sample and record the purge flow by measuring Helium concentration observed in the vehicle exhaust sample. The total volume of Helium flow will be calculated over the course of the actual driving cycle.

(c) Pressure Measurement. The Department may include the fuel system vapor leak test as an element of the evaporative control system test if it is necessary to maintain the ozone standard as specified in OAR 340-031-0030202-0090.

(d) Fuel Cap test. The Inspector must remove the fuel cap from the vehicle and test it to insure the cap is capable of properly sealing the fuel tank's fumes. The Inspector must insert the cap onto a container with fittings representing that of the vehicle's fuel filler pipe. The container will be pressurized with inert gas to detect any leaks. The gas cap leak test standard will be equivalent to the United States Environmental Protection Agency (EPA) leak down standard; however, the time for leak down or the leak detection method may vary from the EPA specified time and method.

(6) If it is determined that the vehicle complies with OAR 340-024-0330256-0400 and ORS 815.310 through 815.325, then, following receipt of the required fees, the Private Business Fleet Vehicle Emission Inspector, Public Agency Fleet Vehicle Emission Inspector or Vehicle Emission Inspector shall issue the required Certificate of Compliance.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A.360 & ORS 468A.363

Stats. Implemented: ORS 468A. 350 - ORS 468A.385

Hist.: DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0312.

340-024-0314256-0360

Motorcycle Noise Emission Control Test Method

(1) The vehicle is to be in neutral gear with the brake engaged. If the vehicle has no neutral gear, the rear wheel shall be at least two inches clear of the ground.

(2) The engine is to be accelerated to a speed equal to 45 percent of the red line speed. Red-line speed is the lowest numerical engine speed included in the red zone on the motorcycle tachometer. If the red-line speed is not available, the engine shall be accelerated to 50 percent of the speed at which the engine develops maximum rated net horsepower.

(3) If it is judged that the vehicle may be emitting propulsion exhaust noise in excess of the noise standards of OAR 340-024-0337256-0430, adopted pursuant to ORS 467.030, then a noise measurement is to be conducted and recorded while the engine is at the speed specified in section (2) of this rule. A reading from each exhaust outlet shall be recorded at the raised engine speed.

(4) If it is determined that the vehicle complies with OAR ~~340-024-0337~~256-0430, then, following receipt of the required fees, the Vehicle Emission Inspector shall issue the required Certificates of Compliance.

(5) No Certificate of Compliance shall be issued unless the vehicle complies with all requirements of OAR ~~340-024-0300~~256-0300 through ~~340-024-0350~~256-0450 and those applicable provisions of ORS 467.030, 468A.350 to 468A.400, 803.350, and 815.295 to 815.325.

Stat. Auth.: ORS 467.030 & ORS 468A.360

Stats. Implemented: ORS 467.030

Hist.: DEQ 24-1984, f. 11-19-84, ef. 7-1-85; DEQ 7-1985(Temp), f. 6-16-85, ef. 7-1-85; DEQ 17-1985, f. & ef. 12-3-85; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1996, f. & cert. ef. 11-26-96; Renumbered from 340-024-0311; renumbered from OAR 340-024-0314.

340-024-0318~~256-0370~~

Renewal of Registration for Light Duty Motor Vehicles and Heavy Duty Gasoline Motor Vehicles Temporarily Operating Outside of Oregon

Vehicles registered in the boundaries described in OAR ~~340-024-0301~~204-0080 that are being operated in another state and are at an address located at least 150 miles outside the Oregon border shall comply with the following requirements.

(1) For vehicles operated within another Environmental Protection Agency approved Inspection and Maintenance (I/M) program area, the Department of Environmental Quality shall establish reciprocity provisions to ensure motor vehicle compliance with the other state's I/M requirements. Compliance with the other state's I/M program requirements is equivalent to the issuance of a Certificate of Compliance.

(2) For vehicles operated in another state, but not within another Environmental Protection Agency approved Inspection and Maintenance (I/M) area, the Department of Environmental Quality shall issue a temporary exemption from I/M testing requirements until such time as the vehicle returns to Oregon. Within 30 calendar days of the date the vehicle returns to Oregon it shall be required to comply with the Oregon I/M program's test criteria, methods and standards.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468A.360

Stats. Implemented: ORS 468A.360

Hist.: DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0318.

340-024-0320~~256-0380~~

Light Duty Motor Vehicle Emission Control Test Criteria for Basic Program

(1) No vehicle emission control test is valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the gas analytical system. For the purpose of the emission control tests conducted at state facilities, except for diesel vehicles, tests are invalid if the exhaust gas is diluted to such an extent that the sum of the carbon monoxide and carbon dioxide concentrations recorded for the idle speed reading from an exhaust outlet is six percent or less, and on 1975 and newer vehicles with air injection systems seven percent or less.

(2) No vehicle emission control test is valid if the engine idle speed exceeds the manufacturer's idle speed specifications by over 200 RPM.

(3)(a) No vehicle emission control test for a 1975 or newer model vehicle is valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 815.305(1), except that for 1975 through 1980 model year vehicles the inspection shall be limited to the catalytic converter system and gas cap component of the evaporative control system except as noted in ORS 815.305(2) or as provided for by **40 CFR 85.1701-1709 (published July 1, 1991)**. The gas cap component of the evaporative control system will not be checked in the Medford-Ashland Air Quality Maintenance Area. Motor vehicle pollution control systems include, but are not necessarily limited to:

(A) Positive crankcase ventilation (PCV) system;

(B) Exhaust modifier system, including:

(i) Air injection reactor system;

(ii) Thermal reactor system; and

(iii) Catalytic converter system.

(C) Exhaust gas recirculation (EGR) systems;

(D) Evaporative control system including the gas cap;

(E) Spark timing system, including:

- (i) vacuum advance system; and
- (ii) vacuum retard system.
- (F) Special emission control devices, including:
 - (i) Orifice spark advance control (OSAC);
 - (ii) Speed control switch (SCS);
 - (iii) Thermostatic air cleaner (TAC);
 - (iv) Transmission controlled spark (TCS);
 - (v) Throttle solenoid control (TSC);
 - (vi) Fuel filler inlet restrictor;
 - (vii) Oxygen sensor;
 - (viii) Emission control computer.

(G) Maintenance indicators or on-board diagnostic indicators on 1996 or newer model year vehicles.

(b) The Department may provide alternative criteria for those required under subsection (a) of this section when it can be determined that the component or an acceptable alternative is unavailable. Such alternative criteria may be granted on the basis of the nonavailability of the original part, replacement part, or comparable alternative solution.

(4) No vehicle emission control test for a 1981 or newer model year vehicle is valid if any element of the factory installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control of air pollution in violation of ORS 815.305(1), except as noted in ORS 815.305(2). For the purposes of this section, the following apply:

(a) The use of a nonoriginal equipment aftermarket part (including a rebuilt part) as a replacement part is not considered to be a violation of ORS 815.305, if a reasonable basis exists for knowing that such use will not adversely effect emission control efficiency. The Department will maintain a listing of those parts that have been determined to adversely effect emission control efficiency;

(b) The use of a nonoriginal equipment aftermarket part or system as a add-on, auxiliary, augmenting, or secondary part of system, is not considered to be a violation of ORS 815.305, if such part or system is on the exemption list of "**Modifications to Motor Vehicle Emission Control Systems Exempted Under California Vehicle Code Section 27156**" granted by the Air Resources Board, or is on the list maintained by the U.S. Environmental Protection Agency of "**Certified to EPA Standards**", or has been determined after review of testing data by the Department that there is no decrease in the efficiency or effectiveness in the control of air pollution;

(c) Adjustments or alterations of particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 815.305.

(5) A 1981 or newer model vehicle that has been converted to operate on gaseous fuels is not in violation of ORS 815.305 when elements of the factory-installed motor vehicle air pollution control system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 815.305.

(6) For a 1975 through 1980 model year vehicle in which the original engine has been replaced, if either the vehicle body/chassis original engine, as per registration/title or replacement engine as manufactured had a catalytic converter system, it must be present, intact and operational before a Certificate of Compliance may be issued.

(7) For a 1981 or newer model year vehicle in which the original engine has been replaced, the emission test standards and applicable emissions control equipment for the year, make and model of the vehicle body/chassis, as per registration/title, or replacement engine, whichever is newer, apply. For those diesel powered vehicles that have been converted to operate on gasoline or gasoline equivalent fuel(s), the emission test standards and applicable emission control equipment for the year, make and model of the gasoline equivalent powered engine as originally manufactured, for the vehicle body/chassis, per the registration or replacement engine, whichever is newer, shall apply.

(8) For those vehicles registered/titled as a 1981 or newer model year that were assembled by other than a licensed motor vehicle manufacturer, such as an Assembled, Reconstructed or Replica Vehicle, Department personnel must determine the applicable emission test standards based upon the vintage of the vehicle engine. The year of the engine is presumed to be that stated by the vehicle owner unless Department personnel determine, after physical inspection, that the year of the engine is other than stated by the owner.

(9) An imported nonconforming motor vehicle that has been imported under a certificate of conformity or modification/test procedure pursuant to **40 CFR Part 85, Subpart P**, must comply with the emission control equipment requirements of such certificate or procedure.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publication: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the Department of Environmental Quality.]

Stat. Auth.: ORS 468A.360

Stats. Implemented: ORS 468A.350 - ORS 468A.385

Hist.: DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 116(Temp), f. & ef. 7-27-76; DEQ 121, f. & ef. 9-3-76; DEQ 139, f. 6-30-77, ef. 7-1-77; DEQ 9-1978, f. & ef. 7-7-78; DEQ 22-1979, f. & ef. 7-5-79; DEQ 6-1980, f. & ef. 1-29-80; DEQ 18-1980, f. & ef. 6-25-80; DEQ 12-1982, f. & ef. 7-21-82; DEQ 19-1983, f. 11-29-83, ef. 12-31-83; DEQ 6-1985, f. & ef. 5-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 21-1988, f. & cert. ef. 9-12-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0320.

340-024-0325256-0390

Heavy Duty Gasoline Motor Vehicle Emission Control Test Criteria

(1) No vehicle emission control test is valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the gas analytical system. For the purpose of emission control tests conducted at state facilities, tests will not be considered valid if the exhaust gas is diluted to such an extent that the sum of the carbon monoxide and carbon dioxide concentrations recorded for the idle speed reading from an exhaust outlet is six percent or less.

(2) No vehicle emission control test is valid if the engine idle speed exceeds 1300 RPM.

(3)(a) No vehicle emission control test for a 1981 or newer model vehicle is valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 815.305(1), except as noted in ORS 815.305(2):

(A) Positive crankcase ventilation (PVC) system;

(B) Exhaust modifier system, including:

(i) Air injection system;

(ii) Thermal reactor system; or

(iii) Catalytic converter system.

(C) Exhaust gas recirculation (EGR) system;

(D) Evaporative control system including the gas cap;

(E) Spark timing system, including:

(i) Vacuum advance system; or

(ii) Vacuum retard system.

(F) Special emission control devices, including:

(i) Orifice spark advance control (OSAC);

(ii) Speed control switch (SCS);

(iii) Thermostatic air cleaner (TAC);

(iv) Transmission controlled spark (TCS);

(v) Throttle solenoid control (TSC);

(vi) Fuel filler inlet restrictor;

(vii) Oxygen sensor; or

(viii) Emission control computer.

(G) Maintenance indicators or on-board diagnostic indicators on 1996 or newer model year vehicles.

(b) The Department may provide alternative criteria for those required under subsection (a) of this section when it can be determined that the component or an acceptable alternative is unavailable. Such alternative criteria may be granted on the basis of the nonavailability of the original part, replacement part, or comparable alternative solution.

(4) No vehicle emission control test conducted for a 1981 or newer model vehicle is valid if any element of the factory-installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control of air pollution in violation of ORS 815.305(1), except as noted in ORS 815.305(2). For the purposes of this section, the following apply:

(a) The use of a nonoriginal equipment aftermarket part (including a rebuilt part) as a replacement part is not considered to be a violation of ORS 815.305, if a reasonable basis exists for knowing that such use will not adversely affect emission control efficiency. The Department will maintain a listing of those parts that have been determined to adversely effect emission control efficiency;

(b) The use of a nonoriginal equipment aftermarket part or system as an add-on, auxiliary, augmenting, or secondary part or system, is not considered to be a violation of ORS 815.305, if such part or system is listed on the exemption list maintained by the Department;

(c) Adjustments or alterations of a particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 815.305.

(5) A 1981 or newer model motor vehicle which has been converted to operate on gaseous fuels is in violation of ORS 815.305 when elements of the factory-installed motor vehicle air pollution control system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 815.305.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A.360

Stats. Implemented: ORS 468A.350- ORS 468A.385

Hist.: DEQ 136, f. 6-10-77, ef. 7-1-77; DEQ 22-1979, f. & ef. 7-5-79; DEQ 12-1982, f. & ef. 7-21-82; DEQ 19-1983, f. 11-29-83, ef. 12-31-83; DEQ 6-1985, f. & ef. 5-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 21-1988, f. & cert. ef. 9-12-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0325.

340-024-0330256-0400

Light Duty Motor Vehicle Emission Control Standards for Basic Program

(1) Light Duty Diesel Motor Vehicle Emission Control Standards: All - 1.5% CO - No HC Check.

(2) Light Duty Gasoline Motor Vehicle Emission Control Standards: Two Stroke Cycle: All - 7.0% CO - No HC Check.

(3) Light Duty Gasoline Motor Vehicle Emission Control Standards: Four Stroke Cycle - Passenger Cars:

(a) *1975 - 1980 Model Year:*

(A) With Catalyst: All 1.0% CO - 220 ppm HC;

(B) Without Catalyst: All 2.5% CO - 300 ppm HC.

(b) *1981 and Newer Model Year: All:*

(A) At idle - 1.0% CO - 220 ppm HC;

(B) At 2,500 RPM - 1.0% CO - 220 ppm HC.

(4) Light Duty Gasoline Motor Vehicle Emission Control Standards - Light Duty Trucks:

(a) 6,000 GVWR or less:

(A) *1975 - 1980 Model Year:*

(i) With Catalyst: All - 1.0% CO - 220 ppm HC;

(ii) Without Catalyst: All - 2.5% CO - 300 ppm HC.

(B) *1981 and Newer Model Year: All:*

(i) At idle - 1.0% CO - 220 ppm HC;

(ii) At 2,500 rpm - 1.0% CO - 220 ppm HC.

(b) 6,001 to 8,500 GVWR:

(A) *1975 - 1978 Model Year: All - 2.5% CO - 300 ppm HC;*

(B) *1979 - 1980 Model Year:*

(i) With Catalyst: All - 1.0% CO - 220 ppm HC;

(ii) Without Catalyst: All - 2.5% CO - 300 ppm HC.

(C) *1981 and Newer: All:*

(i) At idle - 1.0% CO - 220 ppm HC;

(ii) At 2,500 rpm - 1.0% CO - 220 ppm HC.

(5) There shall be no visible emission during the steady-state unloaded and raised rpm engine idle portions of the emission test from either the vehicle's exhaust system or the engine crankcase. In the case of diesel engines and two-stroke cycle engines, the allowable visible emission shall be no greater than 20% opacity.

(6) The Director may establish specific separate standards, differing from those listed in sections (1) through (5) of this rule for vehicle classes which are determined to present prohibitive inspection problems using the listed standards.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A.360

Stats. Implemented: ORS 468A.350 - ORS 468A.385

Hist.: DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 116(Temp), f. & ef. 7-27-76; DEQ 121, f. & ef. 9-3-76; DEQ 139, f. 6-30-77, ef. 7-1-77; DEQ 9-1978, f. & ef. 7-7-78; DEQ 22-1979, f. & ef. 7-5-79; DEQ 18-1980, f. & ef. 6-25-80; DEQ 15-1981(Temp), f. & ef. 5-6-81; DEQ 20-1981, f. 7-28-81, ef. 8-1

340-024-0332256-0410

Light Duty Motor Vehicle Emission Control Standards for Enhanced Program

- (1) Grams Per Mile (GPM) for Light Duty Passenger Cars (LDPC) :
 - (a) Model Year— 1996 and Newer:
 - (A) Hydrocarbons (HC) — 0.9;
 - (B) Carbon Monoxide(CO) — 20;
 - (C) Oxides of Nitrogen (NO_x) — 2.25.
 - (b) Model Year— 1983 - 1995:
 - (A) Hydrocarbons (HC) — 1.2;
 - (B) Carbon Monoxide(CO) — 30;
 - (C) Oxides of Nitrogen (NO_x) — 3.00.
 - (c) Model Year— 1981 - 1982
 - (A) Hydrocarbons (HC) — 1.2;
 - (B) Carbon Monoxide(CO) — 60;
 - (C) Oxides of Nitrogen (NO_x) — 3.00.
- (2) Grams Per Mile (GPM) for Light Duty Truck 1 (LDT1) 6,000 GVWR or Less:
 - (a) Model Year— 1996 and Newer 3750 Loaded Vehicle Weight or Less:
 - (A) Hydrocarbons (HC) — 0.9;
 - (B) Carbon Monoxide(CO) — 20;
 - (C) Oxides of Nitrogen (NO_x) — 2.25.
 - (b) Model Year — 1996 and Newer 3751 Loaded Vehicle Weight or More
 - (A) Hydrocarbons (HC) — 1.2;
 - (B) Carbon Monoxide(CO) — 26;
 - (C) Oxides of Nitrogen (NO_x) — 2.70.
 - (c) Model Year— 1988 - 1995:
 - (A) Hydrocarbons (HC) — 2.4;
 - (B) Carbon Monoxide(CO) — 80;
 - (C) Oxides of Nitrogen (NO_x) — 3.75.
 - (d) Model Year— 1984 - 1987
 - (A) Hydrocarbons (HC) — 2.4;
 - (B) Carbon Monoxide(CO) — 80;
 - (C) Oxides of Nitrogen (NO_x) — 6.75.
 - (e) Model Year— 1981 - 1983
 - (A) Hydrocarbons (HC) — 5.1;
 - (B) Carbon Monoxide(CO) — 140;
 - (C) Oxides of Nitrogen (NO_x) — 6.75.
- (3) Grams Per Mile (GPM) for Light Duty Truck 2 (LDT2) 6,001 to 8500 GVWR:
 - (a) Model Year— 1996 and Newer 5750 Loaded Vehicle Weight or Less:
 - (A) Hydrocarbons (HC) — 1.2;
 - (B) Carbon Monoxide(CO) — 26;
 - (C) Oxides of Nitrogen (NO_x) — 2.70.
 - (b) Model Year— 1996 and Newer 5751 Loaded Vehicle Weight or More
 - (A) Hydrocarbons (HC) — 1.2;
 - (B) Carbon Monoxide(CO) — 30;
 - (C) Oxides of Nitrogen (NO_x) — 3.00.
 - (c) Model Year— 1988 - 1995:
 - (A) Hydrocarbons (HC) — 2.4;
 - (B) Carbon Monoxide(CO) — 80;
 - (C) Oxides of Nitrogen (NO_x) — 5.25.

- (d) Model Year— 1984 - 1987
 - (A) Hydrocarbons (HC) — 2.4;
 - (B) Carbon Monoxide(CO) — 80;
 - (C) Oxides of Nitrogen (NO_x) — 6.75.
- (e) Model Year— 1981 - 1983
 - (A) Hydrocarbons (HC) — 5.1;
 - (B) Carbon Monoxide(CO) — 140;
 - (C) Oxides of Nitrogen (NO_x) — 6.75.

(4) The Director may establish specific separate standards, differing from those listed in sections (1) through (3) of this rule for vehicle classes which are determined to present prohibitive inspection problems using the listed standards.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A.360 & ORS 468A.363

Stats. Implemented: ORS 468A.350- ORS 468A.385

Hist.: DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-242-0332.

340-024-0335256-0420

Heavy-Duty Gasoline Motor Vehicle Emission Control Standards

- (1) Carbon monoxide idle emission values not to be exceeded:
 - (a) 1975 - 1978 Model Year: 4.0%;
 - (b) 1979 and Newer Model Year without catalyst: 3.0%;
 - (c) 1985 and Newer Model Year with catalyst: 1.0%.
- (2) Carbon Monoxide nominal 2,500 rpm emission values not to be exceeded:
 - (a) 1975 and Newer Model Year without catalyst with carburetor: 3.0%;
 - (b) 1975 and Newer Model Year without catalyst with fuel injection: No Check;
 - (c) 1985 and Newer Model Year with catalyst: 1.0%.
- (3) Hydrocarbon idle emission values not to be exceeded:
 - (a) 1975 - 1978 Model Year: 500 PPM;
 - (b) 1979 and Newer Model Year without catalyst: 350 PPM;
 - (c) 1985 and Newer Model Year with catalyst: 220 PPM.
- (4) Hydrocarbon nominal 2,500 rpm emission values not be exceeded: 1985 and Newer Model Year with catalyst: 220 PPM.

(5) There shall be no visible emission during the steady-state unloaded engine idle and raised rpm portion of the emission test from either the vehicle's exhaust system or the engine crankcase.

(6) The Director may establish specific separate standards, differing from those listed in sections (1) through (4) of this rule for vehicle classes which are determined to present prohibitive inspection problems using the listed standards.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A.360

Stats. Implemented: ORS 468A.360

Hist.: DEQ 136, f. 6-10-77, ef. 7-1-77; DEQ 9-1978, f. & ef. 7-7-78; DEQ 22-1979, f. & ef. 7-5-79; DEQ 18-1980, f. & ef. 6-25-80; DEQ 15-1981(Temp), f. & ef. 5-6-81; DEQ 20-1981, f. 7-28-81, ef. 8-1-81; DEQ 18-1986, f. 9-18-86, ef. 10-1-86; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0335.

340-024-0337256-0430

Motor Vehicle Propulsion Exhaust Noise Standards

(1) Light duty motor vehicle propulsion exhaust noise levels not to be exceeded as measured at no less than 20 inches from any opening to the atmosphere downstream from the exhaust ports of the motor vehicle engine:

Vehicle — Type Maximum Allowable Noise Level

All Front Engine Vehicles — 93 dBA

All Rear and Mid Engine Vehicles — 95 dBA

(2) Motorcycle propulsion exhaust noise levels not to be exceeded as measured at no less than 20 inches from any opening to the atmosphere downstream from the exhaust ports of the motorcycle engine:

Model Year — Maximum Allowable Noise Level

Pre-1976 — 102 dBA

1976 and newer — 99 dBA

(3) The Director may establish specific separate standards, differing from those listed in sections (1) and (2) of this rule, for vehicle classes which are determined to present prohibitive inspection problems using the listed standard.

Stat. Auth.: ORS 467.030 & ORS 468A.360

Stats. Implemented: ORS 467.030

Hist.: DEQ 23-1984, f. 11-19-84, ef. 4-1-85; DEQ 24-1984, f. 11-19-84, ef. 7-1-85; DEQ 6-1985, f. & ef. 5-1-85; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0337

340-024-0340256-0440

Criteria for Qualifications of Persons Eligible to Inspect Motor Vehicles and Motor Vehicle Pollution Control Systems and Execute Certificates

(1) Five separate classes of licenses are established as follows:

- (a) Private Business Fleet;
- (b) Public Agency Fleet;
- (c) Private Business Fleet Vehicle Emission Inspector;
- (d) Public Agency Fleet Vehicle Emission Inspector;
- (e) Vehicle Emission Inspector.

(2) Application for a license must be completed on a form provided by the Department.

(3)(a) Each fleet's license is valid for not more than a one year period and expires on December 31 of each year unless revoked, suspended, or returned to the Department;

(b) Each Inspector's license is valid for not more than a two year period and expires on December 31 of every other year unless revoked, suspended, or returned to the Department.

(4) The Department shall not issue any license until the applicant has fulfilled all requirements and paid the required fee.

(5) No license is transferable.

(6) Each license may be renewed upon application and receipt of renewal fee if the application for renewal is made within the 30-day period prior to the expiration date and the applicant complies with all other licensing requirements.

(7) A license may be suspended, revoked, or not renewed if the licensee has violated this Division or ORS 468A.350 to 468A.400, 815.295 to 815.325.

(8) A Private Business Vehicle Emission Inspector or Public Agency Fleet Vehicle Emission Inspector license is valid only for inspection of and execution of Certificates of Compliance for motor vehicle pollution control systems and motor vehicles of the Private Business Fleet or Public Agency Fleet by which the Private Business Fleet Vehicle Emission Inspector or Public Agency Fleet Vehicle Emission Inspector is employed on a full time basis. A Public Agency Fleet Vehicle Emission Inspector may be authorized by the Department to perform inspections and execute Certificates of Compliance for vehicles of other governmental agencies that have contracted with that agency for that service and that contract having the approval of the Director.

(9) To initially receive or renew a license as a Private Business Fleet Vehicle Emission Inspector, a Public Agency Fleet Vehicle Emission Inspector or a Vehicle Emission Inspector, the applicant must be an employee of a Private Business Fleet, a Public Agency Fleet, the Vehicle Inspection Program of the Department or an employee of an Independent Contractor and submit a completed application. All Inspectors shall receive formal training and be licensed or certified to perform inspections pursuant to this Division. The duration of the training program for persons employed by a Private Business Fleet or a Public Agency Fleet shall not be less than 16 hours.

(a) Training.

(A) Inspector training shall include the following subjects:

- (i) The air pollution problems, its causes and effects;
- (ii) The purpose, function and goal of the inspection program;
- (iii) Inspection regulations and procedures;

- (iv) Technical details of the test procedure and the rationale for their design;
- (v) Test equipment operation, calibration and maintenance;
- (vi) Emission control device function, configuration and inspection;
- (vii) Quality control procedures and their purpose;
- (viii) Public relations; and
- (ix) Safety and health issues related to the inspection process.

(B) In order to complete the training requirement, a trainee shall pass (minimum of 80% correct responses) a written test covering all aspects of the training. In addition, a hands-on test shall be administered in which the trainee demonstrates without assistance the ability to conduct a proper inspection, to properly utilize equipment and to follow other procedures. Inability to properly conduct all test procedures shall constitute failure of the test. The Department shall take appropriate steps to insure the security and integrity of the testing process.

(b) Licensing and certification.

(A) All Inspectors shall be either licensed or certified by the Department in order to perform official inspections.

(B) Completion of Inspector training and passing required tests shall be a condition of licensing or certification.

(C) Inspector licenses and certificates shall be valid for no more than 2 years, at which point refresher training and testing shall be required prior to renewal. Alternative approaches based on more comprehensive skill examination and determination of Inspector competency may be used.

(D) Licenses or certificates is not a legal right but rather a privilege bestowed by the Department conditional upon adherence to Department requirements.

(c) Enforcement against Inspectors. Enforcement against licensed Inspectors shall include swift, sure, effective, and consistent penalties for violation of program requirements.

(A) Substantial penalties shall be imposed on the first offense for violations that directly affect emission reduction benefits. At a minimum, whenever a vehicle is intentionally improperly passed for any required portion of the test, Inspectors shall be removed from Inspector duty for at least 6 months or a retainage penalty equivalent to the Inspector's salary for that period shall be imposed.

(B) License or certificate suspension or revocation shall mean the individual is barred from direct or indirect involvement in any inspection operation during the term of the suspension or revocation.

(10) To be licensed as a Private Business Fleet or a Public Agency Fleet, the applicant must:

(a) Employ on a full time basis a Private Business Fleet Vehicle Emission Inspector or;

(b) Employ on a full time basis a Public Agency Fleet Vehicle Emission Inspector; and

(c) Be equipped with an gas analytical system complying with criteria established in OAR ~~340-024-0355~~256-0450 or ~~340-024-0357~~256-0460;

(d) Be equipped with a sound level meter conforming to "**Requirements for Sound Measuring Instruments and Personnel**" (NPCS-2) manual, revised September 15, 1974, of this Department.

(11) No person licensed as a Private Business Fleet or Public Agency Fleet shall advertise or represent himself as being licensed to inspect motor vehicles to determine compliance with the criteria and standards of OAR ~~340-024-0320~~256-0380 and ~~340-024-0330~~256-0400.

[Publication: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468A.380

Stats. Implemented: ORS 468A.380

Hist.: DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 136, f. 6-10-77, ef. 7-1-77; DEQ 3-1978, f. 3-1-78, ef. 4-1-78; DEQ 9-1978, f. & ef. 7-7-78; DEQ 14-1978, f. & ef. 10-3-78; DEQ 6-1980, f. & ef. 1-29-80; DEQ 12-1982, f. & ef. 7-21-82; DEQ 19-1983, f. 11-29-83, ef. 12-31-83; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0340.

340-024-0355-256-0450

Gas Analytical System Licensing Criteria For Basic Program

(1) Test equipment. Computerized test systems are required for performing any measurement on subject vehicles. Performance features of computerized test systems. The test equipment shall be certified to meet the requirements contained in **40 CFR Part 51 Appendix D (November 5, 1992)** and new equipment shall be subjected to acceptance test procedures to ensure compliance with program specifications.

(a) Emission test equipment shall be capable of testing all subject vehicles and shall be updated from time to time to accommodate new technology vehicles as well as changes to the Vehicle Inspection Program.

(b) At a minimum, emission test equipment:

(A) Shall be automated to the highest degree commercially available to minimize the potential for intentional fraud and/or human error;

(B) Shall be secure from tampering and/or abuse;

(C) Shall be based upon written specifications; and

(D) Shall be capable of simultaneously sampling dual exhaust vehicles.

(c) The vehicle owner or driver shall be provided with a computer-generated record of test results, including all of the items listed in **40 CFR Part 85, subpart W** as being required on the test record. The test report shall include:

(A) A vehicle description, including license plate number, vehicle identification number, and odometer reading;

(B) The date and time of the test;

(C) The name or identification number of individual(s) performing the tests and the location of the test station and lane;

(D) The type of test performed, including emission tests, visual checks for the presence of emission control components, and functional, evaporative checks;

(E) The applicable test standards;

(F) A statement indicating the availability of warranty coverage as required in **section 207 of the Clean Air Act**;

(G) Certification that tests were performed in accordance with the regulations; and

(H) For vehicles that fail the tailpipe emission test, information on the possible causes of the specific pattern of high emission levels found during the test.

(2) Functional characteristics of computerized test systems. The test system is composed of emission measurement devices and other motor vehicle test equipment controlled by a computer.

(a) The test system shall automatically:

(A) Make a pass/fail decision for all measurements;

(B) Record test data to an electronic medium;

(C) Conduct regular self-testing of recording accuracy;

(D) Perform electrical calibration and system integrity checks before each test, as applicable; and

(E) Initiate system lockouts for:

(i) Tampering with security aspects of the test system;

(ii) Failing to conduct or pass periodic calibration or leak checks; and

(iii) A full data recording medium or one that does not pass a cyclical redundancy check.

(b) The test system shall insure accurate data collection by limiting, cross-checking; and/or confirming manual data entry.

(3) Gas analytical systems used by Private Business Fleets or Public Agency Fleets must meet the criteria established in this rule by not later than January 1, 1998.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-024-0047200-0040.]

[Publication: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468A.380

Stats. Implemented: ORS 468A.380

Hist.: DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0355.

340-024-0357256-0460

Gas Analytical System Licensing Criteria for Enhanced Program

(1) Light Duty vehicles described in OAR 340-024-0300256-0300(1)(a)(B) may be tested with a gas analytical system that meets the equipment specification described in the **United States Environmental Protection Agency (EPA) High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications, April 1994**. This equipment is referred to as Laboratory Grade Inspection/Maintenance 240 (IM240) testing equipment.

(2) Alternatively, gas analytical systems meeting the EPA "Inspection Grade" (IG) criteria may be utilized. This system, capable of duplicating the IM240 driving cycle, consists of four main pieces of equipment:

(a) Computer system;

(b) Infrared exhaust gas analyzer capable of measuring at least CO, CO₂, HC and NO_x;

(c) CVS system to capture exhaust flow during testing needed to convert the grams per mile readings and fuel economy; and

(d) A dynamometer capable of simulating the IM240 driving cycle.

(3) Gas analytical systems used by Private Business Fleets or Public Agency Fleets must meet the criteria established in this rule by not later than July 1, 1998.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publication: The Publication(s) referred to or incorporated by reference in this rule are available from the office of the agency.]

Stat. Auth.: ORS 468A.380

Stats. Implemented: ORS 468A.380

Hist.: DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0357.

340-024-0360256-0470

Agreement With Independent Contractor; Qualifications of Contractor; Agreement Provisions

(1) The Director is authorized to enter into an emissions inspection agreement with one or more independent contractors, subject to public bidding, to provide for the construction, equipment, establishment, maintenance and operation of any emissions inspection stations or activities in such numbers and locations as may be required to provide vehicle owners reasonably convenient access to inspection facilities for the purpose of obtaining compliance with rules contained in this Division.

(2) The Director is prohibited from entering into an emissions inspection agreement with any independent contractor who:

(a) Is engaged in the business of manufacturing, selling, maintaining or repairing vehicles, except that the independent contractor shall not be precluded from maintaining or repairing any vehicle owned or operated by the independent contractor;

(b) Does not have the capability, resources or technical and management skill to adequately construct, equip, operate or maintain a sufficient number of emissions inspection stations to meet the demand for inspection of every vehicle which is required to be submitted for inspection pursuant to this Division.

(3) All persons employed by the independent contractor in the performance of an emissions inspection agreement are employees of the independent contractor and not of this state. An employee of the independent contractor shall not wear any badge, insignia, patch, emblem, device, word or series of words which would tend to indicate that such person is employed by this state. Employees of the independent contractor are specifically prohibited under this subsection from wearing the flag of this state, the words "state of Oregon", the words "emissions inspection program" or any similar emblem or phrase.

(4) The emissions inspection agreement authorized by this rule shall contain at least the following provisions:

(a) A contract term or duration of not more than ten years with reasonable compensation to the contractor if the provisions of this rule are repealed during the ten year term;

(b) That nothing in the agreement or contract requires the state to purchase any asset or assume any liability if such agreement or contract is not renewed;

(c) The minimum requirements for adequate staff, equipment, management and hours and place of operation of emissions inspection stations;

(d) The submission of such reports and documentation concerning the operation of emissions inspection stations as the Director and the Attorney General may require;

(e) Surveillance by the Department of Environmental Quality and the Department of Administrative Services to ensure compliance with vehicle emissions testing standards, procedures, rules and laws;

(f) The right of this state, upon providing reasonable notice to the independent contractor, to terminate the contract with the independent contractor and to assume operation of the vehicle emissions inspection program;

(g) The right of this state upon termination of the term of the agreement or upon assumption of the operation of the program to have transferred and assigned to it for reasonable compensation any interest in land, buildings, improvements, equipment, parts, tools and services used by the independent contractors in their operation of the program;

(h) The right of this state upon termination of the term of the agreement or assumption of the operation of the program to have transferred and assigned to it any contract rights, and related obligations, for land, buildings, improvements, equipment, parts, tools and services used by the independent contractors in their operation of the program;

(i) The obligation of the independent contractors to provide in any agreement to be executed by them, and to maintain in any agreements previously executed by them, for land, buildings, improvements, equipment, parts, tools and services used in their operation of the program for the right of the independent contractors to assign to this state any of their rights and obligations under such contract;

(j) The amounts of liquidated damages payable by this state to the independent contractor if the state exercises its right to terminate the contract at the conclusion of the first, second, third or fourth year of the contract pursuant to section (f) of this rule. The damages recoverable by the independent contractor if the state exercises its right to terminate the contract shall be limited to the liquidated damages specified in the contract;

(k) Any other provision deemed necessary by the Department of Administrative Services for enforcement of the emissions inspection agreement.

(5) In conjunction with the Attorney General and the Department of Administrative Services, the Department of Environmental Quality shall establish bid specifications or contract terms for a contract with an independent contractor as provided in this rule, review bids for award of a contract with the independent contractors and negotiate any terms of a contract with the independent contractors.

(6) Before entering into any contract the Director shall inquire into the marketplace of independent contractors and based upon this review shall select the independent contractor who in the sole discretion of the Director is best qualified to perform the duties required by this rule and can be operational on January 1, 1998. After a contract is awarded to an independent contractor, the Director may modify the contract with the independent contractor to allow the contractor and the state to comply with amendments to applicable statutes or rules. This modification is exempt from public bidding and may include the addition, deletion or alteration of any contract provision in order to make compliance feasible, including inspection fees and services rendered. Provisions relating to contract term or duration may be amended, except that the term or duration of the contract shall not be extended more than three and one-half years beyond the term of the original contract as awarded. If the Director cannot negotiate an acceptable modification of the contract, the state may terminate the contract.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468.020 & ORS 468A.363

Stats. Implemented: ORS 468A.363

Hist.: DEQ 25-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-024-0360.

DIVISION 258

MOTOR VEHICLE FUEL SPECIFICATIONS

340-022-0450258-0010

Definitions

As used in OAR 340-022-0460 through 340-022-0650: The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

- (1) "Attest Engagement" means a review of nonfinancial records by a CPA.
- (2) "Averaging Period" means the period of time over which all gasoline sold or dispensed for use in a control area by any control area responsible party must comply with the average oxygen content standard.
- (3) "Blend" means regular, unleaded, supreme or other trade names for gasoline products containing differing levels of octane.
- (4) "Blender Control Area Responsible Party (Blender CAR)" means a person who owns oxygenated gasoline which is sold or dispensed from a control area oxygenate blending facility.
- (5) "Bulk gasoline terminal" means a gasoline storage facility which receives gasoline from refineries primarily by pipeline, ship, or barge, and delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by tank truck. [copied from OAR 340-022-0102]
- (56) "Carrier" means any person who transports, stores, or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline and without altering the quality or quantity of the gasoline.
- (67) "Control Area" means a geographic area listed in OAR 340-022-0470204-0090 in which only gasoline that meets the requirements of OAR 340-022-0460258-0110 through 340-022-0650258-0310 may be sold or dispensed.
- (78) "Control Area Oxygenate Blending Facility" means any facility or truck at which oxygenate is added to gasoline that is intended for use in any control area, and at which the quality and quantity of gasoline is not otherwise altered, except through the addition of deposit-control additives.
- (89) "Control Area Responsible Party (CAR)" means a person who owns gasoline and/or oxygenates that is sold or dispensed from a control area terminal.
- (910) "Control Area Terminal" means a terminal storage facility that is capable of receiving gasoline in bulk by pipeline or marine vessel, or at which gasoline is altered either in quantity or quality, excluding the addition of deposit control additives. Gasoline that is intended for use in any control area is sold or dispensed into trucks at these control area terminals.
- (4011) "Control Period" means the period from November 1 through February 29, during which oxygenated gasoline must be sold or dispensed within the control area.
- (4412) "Department" means the Department of Environmental Quality.
- (4213) "Distributor" means a person who transports or stores or causes the transportation or storage of gasoline at any point between a gasoline refinery or importer's facility and any retail outlet or wholesale purchaser-consumer's facility.
- (4314) "EPA" means the U.S. Environmental Protection Agency.
- (4415) "EPA Substantially Similar Ruling" means a fuel or fuel additive for general use in light-duty vehicles manufactured after the model year 1974, that is substantially similar to a fuel or fuel additive used to certify a model year 1975 or newer vehicle or engine under 42 U.S.C. 7525 (Clean Air Act, Section 206), as amended through November 15, 1990 and any amendments or modifications thereto, and as specified in EPA's Interpretative Ruling at 56 Federal Register 5352 - 5356, revised through February 11, 1991, and that the EPA has ruled meets the following criteria:
 - (a) The fuel contains carbon, hydrogen, and any or all of the elements of oxygen, nitrogen, or sulfur exclusively, with the exception of trace levels of impurities which produce gaseous combustion products, in the form of some combination of:
 - (A) Hydrocarbons;
 - (B) Aliphatic ethers;
 - (C) Aliphatic alcohols other than methanol;

(D) Up to 0.3 percent methanol by volume;
(E) Up to 2.75 percent methanol by volume with an equal amount of butanol, or high molecular weight alcohol; or
(F) A fuel additive at a concentration of no more than 0.25 percent by weight which contributes no more than 15 ppm sulfur by weight to the fuel.

(b) The fuel contains no more than 2.0 percent oxygen by weight, except that fuels containing aliphatic ethers and/or alcohols (except methanol) must contain no more than 2.7 percent oxygen by weight;

(c) The fuel possesses, at the time of manufacture, the physical and chemical characteristics of an unleaded gasoline as specified by **ASTM Standard D4814-88** for at least one of the Seasonal and Geographical Volatility Classes specified in the standard; and

(d) The fuel contains only:

(A) Carbon;

(B) Hydrogen; and

(C) Any or all of the following elements: oxygen, nitrogen and sulfur.

~~(4516)~~ "EPA Waiver" means any current motor fuel waivers granted by the U.S. Environmental Protection Agency under authority of **42 U.S.C. 745(f)(4)** (Clean Air Act, Section 211), as amended through November 15, 1990 and any amendments or modifications thereto.

~~(4617)~~ "Gasoline" means:

(a) as used in OAR 340-258-0100 through 340-258-0310 any fuel sold for use in motor vehicles and motor vehicle engines and commonly or commercially known or sold as gasoline;

(b) as used in OAR 340-258-0400 any petroleum distillate having a Reid vapor pressure of 27.6 kPa (4.0 psi) or greater which is used to fuel internal combustion engines. [copied from OAR 340-022-0102]

~~(4718)~~ "Motor Vehicle" means any self-propelled vehicle designed and used for transporting persons or property on a street or highway.

~~(4819)~~ "Nonoxygenated Gasoline" means any gasoline which does not meet the definition of oxygenated gasoline.

~~(4920)~~ "Oxygen Content of Gasoline Blends" means the percentage of oxygen by weight contained in a gasoline blend, based upon its percentage oxygenate by volume, excluding denaturants and other non-oxygen-containing components. All measurements must be adjusted to 60° F.

~~(2021)~~ "Oxygenate" means any substance which, when added to gasoline, increases the amount of oxygen in that gasoline blend. Lawful use of any combination of these substances requires that they be "Substantially Similar" under Section 211(f)(1) of the Clean Air Act (CAA), or be permitted under a waiver granted by the Administrator of the Environmental Protection Agency under the authority of Section 211(f)(4) of the CAA.

~~(2422)~~ "Oxygenate Blender" means a person who owns, leases, operates, controls, or supervises a control area oxygenate blending facility.

~~(2223)~~ "Oxygenated Gasoline" means any gasoline which when supplied on a per gallon basis contains at least 2.7 percent oxygen by weight, except where otherwise required by OAR ~~340-022-0650~~258-0310, or which when supplied using the averaging method contains at least 2.0 percent oxygen by weight, and has been included in the oxygenated gasoline program accounting by a control area responsible party and which is intended to be sold or dispensed for use in any control area during a control period.

~~(2324)~~ "Permitted Control Area Responsible Parties" means any owner of gasoline being imported or sold at or from a terminal who obtains a terminal operator permit to market gasoline in a control area during the control period.

~~(2425)~~ "Refiner" means a person who owns, leases, operates, controls, or supervises a refinery that produces gasoline for use in a control area.

~~(2526)~~ "Refinery" means a plant at which gasoline is produced.

~~(2627)~~ "Reseller" means a person who purchases gasoline and resells or transfers it to a retailer or wholesale purchaser-consumer.

~~(2728)~~ "Retail Outlet" means any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor vehicles.

~~(2829)~~ "Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

~~(2930)~~ "Substantially Similar" means EPA substantially similar ruling.

~~(3031)~~ "Terminal" means a facility capable of receiving gasoline by pipeline or marine vessel at which gasoline is sold, or dispensed into trucks for transportation to retail outlets or wholesale purchaser-consumer facilities.

(3432) "Wholesale Purchaser-Consumer" means any organization that is an ultimate consumer of gasoline and which purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of that product into a storage tank of at least 550 gallon capacity substantially under the control of that organization.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0450.

Oxygenated Gasoline

340-022-0440258-0100

Policy

The Environmental Quality Commission finds and determines that control area responsible parties, distributors and retail outlets are "Indirect Sources" as defined in OAR 340-020-0110(14)254-0030.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0440.

340-022-0460258-0110

Purpose and General Requirements

(1) Pursuant to ORS 468A.420, OAR 340-022-0450258-0100 through 340-022-0650258-0310 apply to:

(a) A person who refines, distributes, blends, supplies, sells, offers for sale, or otherwise markets gasoline for use in motor vehicles; and

(b) Permitted control area responsible parties who own gasoline being imported or being sold at or from terminals who market gasoline.

(2) Except as provided in OAR 340-022-0640258-0300, the requirements of OAR 340-022-0460258-0110 through 340-022-0650258-0310 apply only from November 1 to February 29, and only within a control area listed in OAR 340-022-0470204-0090.

(3) The labeling requirements of OAR 340-022-0640258-0300 apply only within a control area during the control period.

[NOTE: This applies only to the Department rules and a dispenser is still responsible for complying with the disclosure requirements of ORS 646.915.]

(4) To reduce carbon monoxide air pollution from motor vehicles in a control area, OAR 340-022-0460258-0110 through 340-022-0650258-0310 requires:

(a) The dispensing into gasoline powered motor vehicles of an oxygenated gasoline with an oxygen content that meets the requirements of OAR 340-022-0503258-0140 or 340-022-0507258-0150, and 340-022-0510258-0160, as applicable;

(b) That a dispenser where an oxygenated gasoline is dispensed be labeled as required by OAR 340-022-0640258-0300;

(c) That oxygenated gasoline be blended as required by OAR 340-022-0520258-0170; and

(d) A person who refines, distributes, blends, supplies, or sells an oxygenated gasoline to meet the recordkeeping and reporting requirements of OAR 340-022-0460258-0110 through 340-022-0650258-0310.

(5) Nothing in OAR 340-022-0460258-0110 through 340-022-0650258-0310 precludes a person from using, refining, distributing, blending, supplying, selling, or otherwise marketing fuel that meets the requirements of OAR 340-022-0460258-0110 through 340-022-0650258-0310:

(a) Between March 1 and October 31 in a control area; or

(b) At any time in any other location statewide.

(6) Nothing in OAR 340-022-0460258-0110 through 340-022-0650258-0310 precludes a person from using, refining, distributing, blending, supplying, selling, or otherwise marketing nonoxygenated fuel:

(a) Between November 1 and February 29 outside of control areas;

(b) At dispensing facilities where motor vehicles are not fueled.

(7) Except as provided in OAR ~~340-022-0570258-0230~~, the following dispensing sites are exempt from OAR ~~340-022-0460258-0110~~ through ~~340-022-0650258-0310~~ and may dispense nonoxygenated gasoline in control areas during control periods if fuel will not be used in motor vehicles, including but not limited to: Airports, marinas, saw shops, farms dispensing to farm equipment not used as a motor vehicle, and other facilities not dispensing fuel into motor vehicles.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0460.

340-022-0490258-0120

Sampling and Testing for Oxygen Content

(1) To determine compliance with the requirements of OAR ~~340-022-0460258-0110~~ through ~~340-022-0650258-0310~~, the oxygen content of gasoline must be determined by:

(a) Sampling, using the sampling methods specified in **40 CFR 80, Appendix D**, as amended through July 1, 1991, the provisions of which are incorporated by reference in this rule, to obtain a representative sample of the gasoline to be tested;

(b) Testing, using the test method specified in **ASTM 4815-89** or other test methods determined by the Department and EPA as being equivalent, to determine the mass concentration of each oxygenate in the gasoline sampled; and

(c) Oxygen content calculations that are made as follows: Calculate the oxygen content of the gasoline sampled by multiplying the volume concentration of each oxygenate in the gasoline sampled by the oxygen molecular weight contribution of the oxygenate set forth in section (2) of this rule, with volume measurements adjusted to 60 degrees F.

(2) The oxygen molecular weight contributions of an oxygenate approved for use under OAR ~~340-022-0460258-0110~~ through ~~340-022-0650258-0310~~ are set out in **Table A**.

TABLE A

COMPARISON OF SPECIFIC GRAVITIES AND OXYGEN MASS FRACTION OF PURE OXYGENATES

	Specific Gravity 60/60 F	Oxygen Mass Fraction
Methyl Alcohol	0.7963	0.4993
Ethyl Alcohol	0.7939	0.3473
n-Propyl Alcohol	0.8080	0.2662
Isopropyl Alcohol	0.7899	0.2662
n-Butyl Alcohol	0.8137	0.2158
iso-Butyl Alcohol	0.8058	0.2158
sec-Butyl Alcohol	0.8114	0.2158
tertiary-Butyl Alcohol	0.7922	0.2158
Methyl tertiary-Butyl Ether	0.7460	0.1815
Ethyl tertiary-Butyl Ether	0.7452	0.1566
tertiary Amyl Methyl Ether	0.7752	0.1566

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; Administrative correction 10-27-97; renumbered from OAR 340-022-0490.

340-022-0500258-0130

Compliance Options

Each CAR or blender CAR must comply with applicable oxygen content standards set out in OAR ~~340-022-0503258-0140~~(1), ~~340-022-0507258-0150~~(1), and ~~340-022-0520258-0170~~ by means of either the per gallon compliance option established in OAR ~~340-022-0503258-0140~~ or the averaging method compliance option established in OAR ~~340-022-0507258-0150~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0500.

340-022-0503258-0140

Per Gallon Oxygen Content Standard

(1) All gasoline sold or dispensed for use during the control period described in OAR ~~340-022-0460258-0110~~(2), for use in each control area described in OAR ~~340-022-0470204-0090~~, by each CAR or blender CAR using the Per Gallon Oxygen Content Standard Compliance Option, must be blended to contain not less than 2.7 percent oxygen by weight, except where otherwise required by OAR ~~340-022-0650258-0310~~. Oxygen content calculations must be performed as required in OAR ~~340-022-0490258-0120~~.

(2) Compliance calculation on a per gallon basis:

(a) Each gallon of gasoline sold or dispensed by a CAR or blender CAR for use within each control area during the control period shall have an oxygen content of at least 2.7 percent by weight, except where otherwise required by OAR ~~340-022-0650258-0310~~;

(b) In addition, the CAR or blender CAR is prohibited from selling or purchasing oxygen credits based on gasoline for which compliance is calculated under this alternative per gallon method.

[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 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0503.

340-022-0507258-0150

Average Oxygen Content Standard

(1) All gasoline sold or dispensed for use during the control period described in OAR ~~340-022-0460258-0110~~(2), for use in each control area described in OAR ~~340-022-0470204-0090~~, by each CAR or blender CAR using the Average Oxygen Content Standard Compliance Option, must be blended for each averaging period to contain an average oxygen content of not less than 2.7 percent by weight, except where otherwise required by OAR ~~340-022-0650258-0310~~. Oxygen content calculations must be performed as required in OAR ~~340-022-0490258-0120~~.

(2) The averaging period for all gasoline sold or dispensed in a control area is the four-month control period established in OAR ~~340-022-0460258-0110~~(2).

(3) Compliance calculation on average basis:

(a) To determine compliance with the standards in section (1) of this rule, the CAR or blender CAR shall, for each averaging period and for each control area:

(A) Calculate the total volume of gasoline sold or dispensed for use in the control area which is the sum of:

(i) The volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed;

(ii) Minus the volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed in a different control area;

(iii) Minus the volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed in any non-control area.

(B) Calculate the required total oxygen credit units. Multiply the total volume in gallons of oxygenated gasoline sold or dispensed into the control area (as determined by paragraph (3)(a)(A) of this rule) by 2.7 percent, except where otherwise required by OAR ~~340-022-0650258-0310~~;

(C) Calculate the actual total oxygen units generated. The actual total oxygen credit units generated is the sum of the volume of each batch or truck load of oxygenated gasoline that was sold or dispensed in the control area (as determined by paragraph (3)(a)(A) of this rule) multiplied by the actual oxygen content by weight associated with each batch or truck load;

(D) Calculate the adjusted actual total oxygen credit units. The adjusted actual total oxygen content credit units is the sum of the actual total oxygen credit units generated (as determined in paragraph (3)(a)(C) of this rule):

(i) Plus the total oxygen credit units purchased or acquired through trade; and

(ii) Minus the total oxygen credit units sold or given away through trade.

(E) Compare the adjusted actual total oxygen credit units with the required total oxygen credit units. If the adjusted actual total content oxygen credit units is greater than or equal to the required total oxygen credit units, then the standard in section (1) of this rule is met. If the adjusted actual total oxygen credit units is less than the required total oxygen credit units the purchase of oxygen credit units is required in order to achieve compliance;

(F) In transferring oxygen credit units, the transferor shall provide the transferee with the volume and oxygen content by weight of the gasoline associated with the credits.

(b) To determine the oxygen credit units associated with each batch or truck load of oxygenated gasoline sold or dispensed into the control area, use the running weighted oxygen content (RWOC) of the tank from which the batch or truck load was received at the time the batch or truck load was received. In the case of batches or truck loads of gasoline to which oxygenate is added outside of the terminal storage tank from which it was received, use the weighted average of the RWOC and the oxygen content added as a result of the volume of the additional oxygenate added;

(c) Running weighted oxygen content (RWOC). The RWOC accounts for the volume and oxygen content of all gasoline which enters or leaves the terminal storage tank, and all oxygenates which are added to the tank. The RWOC must be calculated each time gasoline enters or leaves the tank or whenever oxygenates are added to the tank. The RWOC is calculated weighing the following:

(A) The volume and oxygen content of the gasoline in the storage tank at the beginning of the averaging period;

(B) The volume and oxygen content by weight of gasoline entering the storage tank;

(C) The volume and oxygen content by weight of gasoline leaving the storage tank; and

(D) The volume, type and oxygen content by weight of the oxygenate added to the storage tank.

(d) Credit transfers. Credit transfer may be used in the compliance calculations in subsection (3)(a) of this rule, provided that:

(A) The credits are generated in the same control area in which they are used; no credits may be transferred between control areas;

(B) The credits are generated in the same averaging period as they are used;

(C) The ownership of credits is transferred only between properly registered CARs or blender CARs;

(D) The credit transfer agreement is made no later than 30 days after the final day of the averaging period in which the credits are generated; and

(E) The credits are properly created.

(e) Improperly created credits:

(A) No party may transfer any credits to the extent that such a transfer would result in the transferor having a negative credit balance at the conclusion of the averaging period for which the credits were transferred. Any credits transferred in violation of this paragraph are improperly created credits;

(B) In the case of credits which were improperly created, the following subparagraphs apply:

(i) Improperly created credits may not be used, regardless of a credit transferee's good faith belief that it was receiving valid credits;

(ii) The transfer of credits in violation of paragraph (A) of this subsection constitutes a violation of the requirements of section (1) of this rule; and

(iii) Where any credits are transferred in violation of paragraph (A) of this subsection, the transferor's properly-created credits will be applied first to any credit transfers before the transferor may apply any credits to achieve its own compliance;

(iv) Where any credits are transferred in violation of paragraph (A) of this subsection, the transferor shall be held legally and financially liable for any penalties or damages incurred by the transferee as a result of the invalid transaction.

[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 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; Renumbered from 340-22-480; renumbered from OAR 340-022-0507.

340-022-0510258-0160

Minimum Oxygen Content

(1) Any gasoline sold or dispensed by a CAR or a blender CAR for use within a control area during the control period, must contain not less than the minimum percent oxygen by weight allowed in the Oxygen Content Standard listed below, except where otherwise required by OAR 340-022-0650258-0310:

(a) Minimum oxygen content when using the Per Gallon Oxygen Content Standard Compliance Option is 2.7 percent oxygen by weight, unless it is sold or dispensed to another registered CAR or blender CAR. This requirement begins no less than five working days before the control period and applies until the end of that period;

(b) Minimum oxygen content when using the Average Oxygen Content Standard Compliance Option is 2.0 percent oxygen by weight, unless it is sold or dispensed to another registered CAR or blender CAR. This requirement begins at least five working days before the control period and applies until the end of that period.

(2) The requirements of this rule apply to all persons downstream of the CAR. Any gasoline offered for sale, sold or dispensed to an ultimate consumer within a control area must contain not less than:

(a) 2.7 percent oxygen by weight when supplied by a CAR or blender CAR who uses the Per Gallon Oxygen Content Standard Compliance Option, except where otherwise required by OAR 340-022-0650258-0310. This requirement applies during the entire control period;

(b) 2.0 percent oxygen by weight when supplied by a CAR or blender CAR who uses the Average Oxygen Content Standard Compliance Option. This requirement applies during the entire control period.

(3) A refiner or importer shall determine the oxygen content of gasoline produced by use of an applicable method described in OAR 340-022-0500258-0130. This determination must include the percent oxygenate by weight, the type of oxygenate and percent by volume.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0510.

340-022-0520258-0170

Oxygenated Gasoline Blending

(1) In addition to the other applicable requirements of OAR 340-022-0460258-0110 through 340-022-0650258-0310, no person may refine, distribute, blend, supply, sell, offer for sale or otherwise market any unleaded oxygenated gasoline for use in a motor vehicle unless that product:

(a) Has received a waiver from the U.S. Environmental Protection Agency (EPA) under **42 U.S.C. 7545(f)(4)**, as amended through November 15, 1990 and any amendments or modifications thereto; or

(b) Meets EPA's "substantially similar" ruling for a fuel or fuel additive used to certify a model year 1975 or newer vehicle or engine under **42 U.S.C. 7525** (Clean Air Act), as amended through November 15, 1990 and any amendments or modifications thereto.

(2) Only an oxygenate that is found to be acceptable under EPA's "substantially similar" ruling may be used in gasoline containing lead to meet the oxygenate requirements of OAR 340-022-0460258-0110 through 340-022-0650258-0310.

(3) The requirements of this rule do not affect the blending into leaded gasoline of a compound that does not require an EPA waiver or an EPA "substantially similar" ruling.

(4) Only those oxygenates and concentrations listed below and any gasoline designated by EPA as substantially similar are allowed:

(a) Blends of up to ten percent by volume anhydrous ethanol (200 proof) (commonly referred to as the "gasohol" waiver);

(b) Blends of methanol and gasoline grade tertiary butyl alcohol (GTBA) such that the total oxygen content does not exceed 3.5 percent by weight and the ratio of methanol to GTBA is less than or equal to one. It is also specified that this blended fuel must meet ASTM volatility specifications (commonly referred to as the "ARCO" waiver);

(c) Blends of up to 5.0 percent by volume methanol with a minimum of 2.5 percent by volume cosolvent alcohols having a carbon number of four or less (i.e., ethanol, propanol, butanol and/or GTBA). The total oxygen must not exceed 3.7 percent

by weight, and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "DuPont" waiver);

(d) Blends up to 5.0 percent by volume methanol with a minimum of 2.5 percent by volume cosolvent alcohols having a carbon number of eight or less. The total oxygen must not exceed 3.7 percent by weight and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "Octamix" waiver);

(e) Blends up to 15.0 percent by volume methyl tertiary butyl ether (MTBE) which must meet the ASTM D4614 specifications. Blenders must take precautions that the blends are not used as base gasolines for other oxygenated blends (commonly referred to as the "Sun" waiver);

(f) Blends of aliphatic alcohols other than methanol and aliphatic ethers, provided the oxygen content does not exceed 2.7 percent by weight;

(g) Blends of methanol up to 0.3 percent by volume exclusive of other oxygenates;

(h) Blends up to 2.75 percent by volume methanol with an equal volume of butanol or alcohols of a higher molecular weight.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0520.

340-022-0530258-0180

Registration

(1) At least 30 days before the control period in which a person meets the definition of CAR or blender CAR, that person shall petition for registration as a CAR or blender CAR. A person may petition for registration as a CAR or blender CAR after the beginning of the control period but should also do so at least 30 days before conducting activities as a CAR or blender CAR. A petition for registration must be on forms approved by, and available from the Department, and must include:

(a) The name and business address of the control area responsible party;

(b) The address and physical location of each of the control area terminals from which the control area responsible party operates;

(c) The address and physical location of each control area oxygenate blender facility which is owned, leased, operated, controlled or supervised by a blender CAR; and

(d) The address and physical location where documents required to be retained by this rule will be kept by the control area responsible party.

(2) Within 30 days after any occasion when the registration information previously supplied by a control area responsible party becomes incomplete or inaccurate, the CAR or blender CAR shall submit updated registration information to the Department.

(3) The Department will issue each CAR or blender CAR a unique identification number within 30 days after submission of a registration application to the Department. No person may participate in the averaging program under OAR ~~340-022-0507258-0150~~ as a CAR or blender CAR until the Department has issued notice that registration as a CAR or blender CAR has occurred, and a unique CAR identification number. Registration is valid for the time period specified by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0530.

340-022-0540258-0190

CAR, Distributor and Retail Outlet Operating Permits

Each CAR, distributor and retail outlet supplying gasoline to a control area during a control period shall apply for and receive a permit as specified by OAR ~~340-020-0136258-0200~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0540.

340-020-0136258-0200

Owners of Gasoline at Terminals, Distributors and Retail Outlets Required to Have Indirect Source Operating Permits

The owner of gasoline at any gasoline terminal, distributor or retail outlet (defined in OAR 340-022-0450258-0010(29), (12), (26)) shall not supply gasoline to any oxygenated gasoline control area during the control period (defined in OAR 340-022-0450258-0010(6) and (10)) without an approved Indirect Source Operating Permit issued by the Department or Regional Authority having jurisdiction:

(1) An Indirect Source Operating Permit must be renewed yearly, prior to supplying any gasoline to an oxygenated gasoline control area during the control period.

(2) Persons applying for an Indirect Source Operating Permit shall at the time of application pay the following fees:

(a) Gasoline Terminals — \$2,500;

(b) Gasoline Distributors — \$250;

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.040

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1994, f. & cert. ef. 11-2-94; renumbered from OAR 340-022-0136.

340-022-0550258-0210

Recordkeeping

(1) All persons in the gasoline distribution network shall maintain records containing the applicable compliance information described in this rule. The records must be kept by the regulated persons for at least two years:

(2) Refiners and importers shall, for each separate quantity of gasoline produced or imported for use in a control area during the control period, maintain records containing results of any tests needed to determine the types of oxygenates and percentage by volume:

(a) Oxygenate type;

(b) Oxygenate content by volume;

(c) Oxygen content by weight;

(d) Total volume; and

(e) Name and address of the party to whom each separate quantity of gasoline was sold or transferred.

(3) A person who owns, leases, operates or controls a gasoline terminal that serves a control area shall maintain records containing:

(a) The name and address of the owner of each batch of gasoline handled during the control period;

(b) The volume of each batch or truck load of gasoline going into or out of the terminal;

(c) The RWOC of all batches or truck loads of gasoline leaving the terminal;

(d) The type of oxygenate, purity and percentage by volume if available;

(e) The oxygen content by weight of all batches or truck loads received at the terminal;

(f) Information of each tank truck sale or batch of gasoline, as to whether it was designated for use within a control area or not;

(g) The name and address of the person to whom the gasoline was sold or transferred and the date of the sale or transfer; and

(h) Results of the tests for oxygenates, if performed, of each sale or transfer and who performed the tests.

(4) CARs and blender CARs must maintain records containing the information listed in section (3) of this rule, plus the following information:

(a) CAR or blender CAR identification number;

(b) Records supporting and demonstrating compliance with the Per Gallon Oxygen Content Standard listed in OAR340-~~022-0503258-0140~~; or

(c) Records supporting and demonstrating compliance with the Average Oxygen Content Standard listed in OAR 340-~~022-0507258-0150~~:

(A) For any credits bought, sold, traded or transferred, the date of each transaction, the name, address and CAR or blender CAR number of the CAR or blender CAR involved in each transaction, and the amount of credit units (oxygen content and volume of gasoline) transferred; credit units transferred must be accompanied by a demonstration of how those credits were calculated, including adequate documentation that both parties have agreed to all credit transactions;

(B) The name and address of the auditor, and the results of the attest engagement conducted under OAR 340-~~022-0630258-0290~~;

(C) The name and address of the person from whom each shipment of gasoline was received, and the date when it was received;

(D) Data on each shipment of gasoline received, including:

(i) The volume of each shipment;

(ii) The type of oxygenate, purity and percentage by volume; and

(iii) Oxygen content by weight.

(E) The volume of each receipt of bulk oxygenates;

(F) The name and address of the persons from whom bulk oxygenates was received;

(G) The date and destination of each sale of gasoline, whether it was intended for use within a control area or not;

(H) Data on each shipment of gasoline sold or dispensed including:

(i) The volume of each shipment;

(ii) The type of oxygenate, purity and percentage by volume; and

(iii) Oxygen content by weight.

(I) Documentation of the results of all required tests done regarding the oxygen content of the gasoline; and

(J) The names, addresses and CAR or blender CAR identification numbers of the persons to whom any gasoline was sold or dispensed, and the dates of each transaction.

(5) Retailers and wholesale purchaser-consumers within a control area shall maintain the following records which shall be available for Department inspection upon request:

(a) The names, addresses and CAR or blender CAR identification number of each person from whom a shipment of gasoline was purchased or received, and the date when each shipment was received; and

(b) Data on each shipment bought, sold or transported including:

(A) The volume of each shipment;

(B) The type of oxygenate, purity and percentage by volume;

(C) Oxygen content by weight.

[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-~~020-0047200-0040~~.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0550.

340-022-0560257-0220

Reporting

(1) Each CAR or blender CAR shall submit a report for each control period defined in OAR 340-~~022-0460258-0110~~(2), reflecting the compliance information detailed in OAR 340-~~022-0503258-0140~~ or 340-~~022-0507258-0150~~, as applicable. Reports are due to the Department on the 30th day of the month following the close of the control period for which the information is required. Reports must be filed on forms provided by the Department.

(2) If the CO Contingency Provision, as specified in OAR340-~~022-0650258-0310~~, is triggered, each CAR or blender CAR shall submit the information described in section (1) of this rule after the first half of the control period and at the end of

the control period. Reports are due to the Department on the 30th day of the month following the end of each two month segment of the control period.

(3) Each time that physical custody or title of gasoline destined for a control area is transferred, except when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility, the transferor shall provide to the transferee, in addition to, or as part of, normal bills of lading or invoices, a transfer document containing information on the shipment. The transfer document must accompany every shipment of gasoline to a control area after it has been dispensed by a terminal, or the information must be included in the normal paperwork that accompanies each shipment of gasoline. The information must legibly and conspicuously contain the following information:

- (a) The date of the transfer;
- (b) The name, address and CAR or blender CAR identification number, if applicable of the transferor;
- (c) The name, address and CAR or blender CAR identification number, if applicable, of the transferee;
- (d) The volume of gasoline being transferred;
- (e) The proper identification of the gasoline as nonoxygenated or oxygenated;
- (f) The location of the gasoline at the time of the transfer;
- (g) The type of oxygenate and purity;
- (h) The percentage by volume, to the nearest 0.1 percent, of oxygenate in the fuel; and
- (i) For gasoline in the gasoline distribution network between the refinery or import facility and the covered area terminal, the oxygen content by weight and the oxygenate volume of the gasoline.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0560.

340-022-0570258-0230

Prohibited Activities

(1) During the control period, no refiner, importer, oxygenate blender, carrier, distributor or reseller may manufacturer, sell, offer for sale, dispense, supply, offer for supply, store, transport or cause the transportation of:

- (a) Gasoline that contains less than 2.0 percent oxygen by weight, for use during the control period, in a control area; or
- (b) Gasoline represented as oxygenated which has an oxygen content that is improperly stated in the documents that accompany the gasoline.

(2) No retailer or wholesale purchaser-consumer may dispense, offer for sale, sell, or store, for use during the control period, gasoline that contains less than 2.7 percent oxygen by weight in a control area when supplied by a CAR using the Per Gallon Oxygen Content Standard or less than 2.0 percent oxygen by weight in a control area when supplied by a CAR using the Average Oxygen Content Standard.

(3) No person may operate as, or claim to be a CAR or blender CAR unless that person is registered by the Department under OAR ~~340-022-0530252-0180~~. No CAR or blender CAR may offer for sale, store, sell or dispense gasoline to any person who is not registered as a CAR for use in a control area, unless:

(a) The oxygen content of the gasoline during the control period or averaging period meets the standard set in OAR ~~340-022-0503258-0140~~ or ~~340-022-0507258-0150~~, and OAR ~~340-022-0510258-0160~~, as applicable; and

(b) The gasoline contains at least:

(A) 2.7 percent oxygen by weight when the Per Gallon Oxygen Content Standard is used, except as required by OAR ~~340-022-0650258-0310~~;

(B) 2.0 percent oxygen by weight when the Average Oxygen Content Standard is used.

(4) For a terminal that sells or dispenses gasoline intended for use in a control area during the control period, the terminal owner or operator may not accept gasoline into the terminal unless:

(a) Transfer documentation accompanies it containing information required by OAR ~~340-022-0560258-0220~~(3); and

(b) The terminal owner or operator conducts a quality assurance program to verify the accuracy of the information referred to in subsection (a) of this section.

(5) No person may sell, store or dispense nonoxygenated gasoline in any control area during the control period unless:

(a) The nonoxygenated gasoline is segregated from oxygenated gasoline;

(b) Clearly marked documents accompany the nonoxygenated gasoline marking it as “**nonoxygenated gasoline, not for sale to an ultimate consumer in a control area**”; and

(c) The nonoxygenated gasoline is in fact not sold or dispensed to ultimate consumers during the control period, in the control area.

(6) No person subject to the requirements of OAR ~~340-022-0460258-0110~~ through ~~340-022-0650258-0310~~ may fail to comply with the requirements of OAR ~~340-022-0460258-0110~~ through ~~340-022-0650258-0310~~.

(7) No person may sell, store, dispense, or transfer oxygenated gasoline, except for use by the ultimate consumer at a retail outlet or wholesale purchaser-consumer facility, without transfer documents that accurately contain the information required by OAR ~~340-022-05602582-0220(3)~~.

(8) Any CAR, distributor or retail outlet that does not have a valid terminal permit may not market gasoline for use in a control area during the control period unless a prior owner of the gasoline has a valid terminal permit as required by OAR ~~340-020-0136258-0200~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0570.

~~340-022-0580258-0240~~

Inspection and Sampling

With consent of the owner or operator, the Department will, at any reasonable time, enter the premises of any person subject to the requirements of OAR ~~340-022-0460258-0110~~ through ~~340-022-0650258-0310~~ to determine compliance. The Department will inspect all relevant records and equipment, and will, in its discretion, purchase gasoline samples for testing by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0580.

~~340-022-0590258-0250~~

Liability for Violation of a Prohibited Activity

(1) Subject to OAR ~~340-022-0600258-0260~~, if gasoline contained in a storage tank at a facility owned, leased, operated, controlled or supervised by a retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender is found to be in violation of OAR ~~340-022-0570258-0230(1)(a)~~ or (2), the following persons will be considered in violation:

(a) The retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender who owns, leases, operates, controls or supervises the facility where the violation is found; and

(b) Each oxygenate blender, distributor, reseller and carrier who, downstream of the control area terminal, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported or caused the transportation of gasoline that is in the storage tank containing gasoline found to be in violation.

(2) Subject to OAR ~~340-022-0600258-0260~~, if gasoline contained in a storage tank at a facility owned, leased, operated, controlled or supervised by a retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender is found to be in violation of OAR ~~340-022-0570258-0230(1)(b)~~ or (2), the following persons will be considered in violation:

(a) The retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender who owns, leases, operates, controls or supervises the facility where the violation is found; and

(b) Each refiner, importer, oxygenate blender, distributor, reseller and carrier who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported or caused the transportation of gasoline that is in the storage tank containing gasoline found to be in violation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0590.

340-022-0600258-0260

Defenses for Prohibited Activities

(1) A refiner, importer, oxygenate blender, distributor, reseller or carrier is considered to be in violation of OAR ~~340-022-0570258-0230~~(1) unless that person demonstrates that:

(a) The violation was not caused by the regulated person or that person's employee or agent;

(b) The person possesses documents that should accompany the gasoline, and that contain the information required by OAR ~~340-022-0560258-0220~~;

(c) The person conducts a quality assurance sampling and testing program as described in OAR ~~340-022-0620258-0280~~; and

(2) A refiner, importer, oxygenate blender, distributor, reseller or carrier is considered to be in violation of OAR ~~340-022-0570258-0230~~(5) unless that person demonstrates that:

(a) The product is clearly labeled as "**blendstock/export/storage**" and the evidence supports this classification;

(b) The accompanying documents clearly state that the product does not comply with the oxygenated gasoline requirements;

(c) Some aspect of the product's quality supports the party's claim that the product was intended to be further blended before being sold, supplied, etc., as a finished product;

(d) The seller, supplier or transporter of the product has obtained a written certification or notice on shipping documents from the buyer/recipient of the product that the buyer/recipient understands that the product is not intended for sale or distribution as finished gasoline in a control area or until:

(A) It is blended to meet the oxygenated gasoline requirements of OAR ~~340-022-0460258-0110~~ through ~~340-022-0650258-0310~~; or

(B) The buyer/recipient receives equivalent certification from a subsequent buyer or obtains a written certification that the gasoline will not be sold or dispensed for use within a control area; and

(e) The party has no knowledge or reason to believe that the product will not be further blended to comply with the standards of OAR ~~340-022-0503258-0140~~ or ~~340-022-0507258-0150~~, and ~~340-022-0510258-0160~~ before being sold, supplied or transported as finished product, or that it would be sold or dispensed without further blending within a control area.

(3) A retailer or wholesale purchaser-consumer is considered to be in violation of OAR ~~340-022-0570258-0230~~(2) unless that person demonstrates that:

(a) The violation was not caused by the regulated person or that person's employee or agent;

(b) The person possesses documents that should accompany the gasoline, and that contain the information required by OAR ~~340-022-0560258-0220~~.

(4) For purposes of this rule, the term "was caused" means that the person must demonstrate by a preponderance of the evidence through reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0600.

340-022-0610258-0270

Inability to Produce Conforming Gasoline Due to Extraordinary Circumstances

The Department will allow a person to distribute fuel which does not meet the oxygenated gasoline requirements of OAR ~~340-022-0460258-0110~~ through ~~340-022-0650258-0310~~ in appropriate extreme and unusual circumstances which are clearly outside the control of the blender CAR and which could not have been avoided by the exercise of prudence, diligence and due care if:

(1) It is in the public interest to do so because distribution of the nonconforming fuel is necessary to meet projected shortfalls which cannot otherwise be compensated for;

(2) The blender CAR exercised prudent planning and was not able to avoid the violation and has taken all reasonable steps to minimize the extent of the nonconformity;

(3) The blender CAR can show how the requirements for oxygenated gasoline will be expeditiously achieved; and

(4) The blender CAR agrees to make up the air quality detriment associated with the nonconforming gasoline, where practicable.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0610.

340-022-0620-258-0280

Quality Assurance Program

To demonstrate an acceptable quality assurance program under this rule, a person shall conduct periodic sampling and testing to determine if the oxygenated gasoline has oxygen content that is consistent with the product transfer documentation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0620.

340-022-0630258-0290

Attest Engagements Guidelines When Prohibited Activities Alleged

(1) The Department will not require a CAR or blender CAR to submit attest engagement reports except as an optional defense for any alleged violations of OAR ~~340-022-0460258-0110~~ through ~~340-022-0650258-0310~~.

(2) The attest engagement shall consist of performing the agreed-upon procedures set forth in the guidelines in accordance with the Association of Independent Certified Public Accountants' (AICPA's) statements on standards for Attestation Engagements and using statistical sample design parameters provided by EPA.

(3) In performing the attest engagement, the CPA shall determine the sample size for each population according to parameters set out in **Table B**.

TABLE B

Number in Population (N) — Sample Size

66 or larger — 59

41 - 65 — 41

26 - 40 — 31

0 - 25 — N or 24, whichever is smaller

(4) The number of populations from which samples should be drawn will vary depending on the circumstances. Sample items should be selected in such a way that the sample can be expected to be representative of the population.

(5) If the CPA agrees to use some other form of sample selection and some other method to determine the sample size, that agreement should be summarized in the CPA's report.

(6) The attest engagement shall be conducted by an independent Certified Public Accountant (CPA).

(7) The CPA is required to comply with the general code of conduct and ethics as prescribed by the State of Oregon and by the AICPA.

(8) The attest engagement shall include the following agreed-upon procedures, as appropriate, for the CAR's standardized reporting form(s):

(a) Read the report completed by management and filed with the Department;

(b) Obtain from the CAR an inventory reconciliation summarizing receipts and deliveries of all gasoline, gasoline blendstocks, and oxygenates for CARs serving a control area:

- (A) Test mathematical accuracy of inventory reconciliation;
- (B) Agree beginning and ending inventory amounts to company's perpetual inventory records;
- (C) Agree deliveries into the control area to Department report, if applicable.
- (c) Obtain listing of all gasoline, gasoline blendstocks, and oxygenate receipts during the period:
 - (A) Test mathematical accuracy of listing;
 - (B) Agree amounts to inventory reconciliation;
 - (C) Select a representative sample of individual receipts of gasoline, gasoline blendstocks, and oxygenates and trace details back to source documents.
- (d) Obtain listing of all gasoline, gasoline blendstocks, and oxygenates sold or dispensed during the period:
 - (A) Test mathematical accuracy of listing;
 - (B) Agree amounts to inventory reconciliation report;
 - (C) Select a representative sample of individual batches sold or dispensed both into and outside the control area:
 - (i) Agree volumes for the sample items to original bill of lading or other source documents;
 - (ii) For sales or deliveries into the control area, determine that oxygenate content is at least two percent by examining bills of lading.
- (e) Using the volume of oxygenated gasoline sold or dispensed into the control area from the inventory reconciliation report, recalculate the number of oxygen content units required by multiplying by 2.7 percent, except where otherwise specified in OAR340-022-0650258-0310, and agree to Department report;
- (f) Recalculate the actual total oxygen credit units generated by adding the oxygen content of each batch or truck load of oxygenated gasoline that was sold or dispensed in the control area as determined in subsection (8)(e) of this rule multiplied by the actual oxygen content by weight associated with each batch or truck load;
 - (g) Recalculate the adjusted actual total oxygen credit units as follows:
 - (A) The actual total oxygen credit units generated from subsection (8)(f) of this rule;
 - (B) Plus the total oxygen credit units purchased or acquired through trade; and
 - (C) Minus the total oxygen credit units sold or given away through trade.
 - (h) The following steps apply to the testing of the actual total oxygen content from subsection (8)(f) of this rule and are applicable based on method of blending:
 - (A) For CARs using rack- and truck-blending, recompute oxygen content by weight for a representative sample of deliveries based on detailed meter readings of gasoline, blendstocks and oxygenate receipts;
 - (B) For CARs using in-tank blending of gasoline, blendstocks and oxygenates, obtain register of running weighted oxygen content by tank and:
 - (i) Using the individual sample items from subsections (8)(c) and (d) of this rule test calculation of running totals;
 - (ii) Where laboratory analysis is used with the CARs weighted average calculation, select individual analysis reports of oxygenated gasoline receipts and deliveries during the period on a representative sample basis:
 - (I) Review laboratory results for consistency with CAR's calculations noting oxygen volume and specific gravity;
 - (II) Recalculate oxygen by weight;
 - (III) Agree information on lab reports to underlying delivery and receiving documentation.
- (i) Obtain register of oxygen credit unit purchases and sales and select separate representative samples of individual purchased credits and individual sales credits:
 - (A) Agree selected credit unit transactions to the underlying contract and/or other supporting documentation noting specific volumes and oxygen content of the gasoline associated with the credits;
 - (B) Agree to the underlying contract and/or supporting documentation that the credits are generated in the same control areas as they are used. For example, no credits may be transferred between control areas;
 - (C) Agree to the underlying contract and/or supporting documentation that the credits are generated in the same averaging period as they are used;
 - (D) Agree to the underlying contract and/or supporting documentation that the ownership of credits is transferred only between CARs;
 - (E) Agree to the underlying contract and/or supporting documentation that the credit transfer agreement was made no later than 30 days after the final day of the averaging period in which the credits are generated.
- (j) Prepare a report to client in accordance with the report provisions of Statements on Standards for Attestation Engagements indicating results of performing the above procedures.
- (9) The attestation report must be in compliance with the AICPA's Statement on Standards for Attestation Engagements.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; Administrative correction 10-27-97; renumbered from OAR 340-022-0630.

340-022-0640258-0300

Dispenser Labeling

(1) A person who sells or markets oxygenated gasoline at retail, or who otherwise provides oxygenated gasoline for consumption by an ultimate consumer, shall place two labels on a dispenser used to dispense the gasoline to identify the oxygenate in the fuel, using the following criteria:

(a) The first label must include the following statement: **“The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles”**;

(b) The second label must contain the type of oxygenate(s) and the exact (plus or minus 0.5 percent) or maximum use concentration by volume. Only those oxygenates and concentrations listed below and any gasoline designated by EPA as substantially similar are allowed.

[NOTE: This applies only to the Department rules and dispenser is still responsible for complying with the disclosure requirements of ORS 646.915.]

(c) Lettering on the label must be legible and in block style of at least 20 point bold type;

(d) The lettering on the label shall be in a color contrasting to the intended background;

(e) The label must be placed on each side of the dispenser from which the gasoline can be dispensed and shall be on the upper one half of the dispenser, in a position that will be clear and conspicuous to the consumer.

(2) A person who pursuant to OAR340-022-0460258-0110(7) dispenses nonoxygenated gasoline in a control area during the control period at a site where motor vehicles may have access must display a label in accordance to the standards above containing the following information: **“This fuel is not oxygenated to State of Oregon standards and may not be dispensed into motor vehicles”**.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[NOTE: Dispensing sites that are not accessible to motor vehicles are not required to have the above labels.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0640.

340-022-0650258-0310

Contingency Provision for Carbon Monoxide Nonattainment Areas

(1) Subsections (a), (b), (c) and (d) of this section apply to OAR 340-022-0440258-0100 through 340-022-0640258-0300:

(a) Upon determination by the Department, or written notification to the Department by the EPA Administrator that a carbon monoxide nonattainment area in a control area, as specified in OAR340-022-0470204-0090, fails to meet an applicable Clean Air Act deadline for attainment of the NAAQS for carbon monoxide, the following provisions shall become applicable in such control areas within eight months of written notification by the Department or the EPA Administrator, whichever is sooner:

(A) Oxygenates shall be supplied at maximum EPA approved oxygen content levels during the control period (e.g., 3.5 percent for gasoline oxygenated with ethanol and 2.7 percent for gasoline oxygenated with MTBE);

(B) Compliance calculations shall be based on the per gallon oxygen content supplied by each CAR or blender CAR during the control period.

(b) At the end of each control period during which fuel meeting requirements of subsection (1)(a) of this rule is supplied, the Department will evaluate control area oxygenate mix information which is submitted by CARs and blender CARs in accordance with OAR 340-022-0560258-0220. If the Department projects, based on this data, that the average oxygen content of gasoline supplied in a control area will be less than 3.1 percent in the next control season, the Department shall notify affected parties no later than March 1 and the following additional requirements shall become effective in subsequent control periods:

(A) The average oxygen content standard of gasoline for CARs or blender CARs using the Average Oxygen Content Standard Compliance Option, shall be increased to a minimum of 2.9 percent;

(B) The oxygen content standard of gasoline for CARs and blender CARs using the Per Gallon Oxygen Content Standard Compliance Option, shall be increased to a minimum of 2.9 percent;

(C) Compliance calculations and the calculation of oxygen credit units, where applicable, shall be based on an oxygen content of 2.9 percent.

(c) Federal standards for percent by volume oxygenate content may not be exceeded and shall not be affected by any requirement under section (1) of this rule;

(d) This rule shall be applicable during the control period specified in OAR ~~340-022-0460258-0110~~(2).

NOTE: OARs affected by this provision include: OAR ~~340-022-0450258-0010~~(22), ~~340-022-0503258-0140~~(1) and (2); ~~340-022-0507258-0150~~(1) and (3)(a)(B), ~~340-022-0510258-0160~~(1)(a) and (2)(a), ~~340-022-0560258-0220~~, ~~340-022-0570258-0230~~(3)(b)(A), and ~~340-022-0630258-0290~~(8)(e).

(2) The Department may propose to the Environmental Quality Commission the adoption of an equivalent alternative program to achieve necessary carbon monoxide emission reductions as a substitute for measures outlined in subsection (1)(a) of this rule. An alternative carbon monoxide contingency plan which is adopted by the Commission shall not become effective until approved by the EPA as a SIP revision.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.420

Hist.: DEQ 15-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-022-0650.

Standard for Automotive Gasoline

~~340-022-0300258-0400~~

Reid Vapor Pressure for Gasoline

(1) No person shall sell or supply as a fuel for motor vehicles any gasoline which does not comply with the requirements of 40 CFR 80.

(2) The Reid Vapor Pressure of gasoline sold or supplied, by bulk gasoline terminals and gasoline refiners, as fuel for motor vehicles shall be measured according to the procedures established in the most current method of **ASTM D323**:

(a) The geographic coverage of this section shall be consistent with boundary specified in **ASTM D439**, specifically all of Oregon, west of 122 degrees Longitude;

(b) Test results from samples submitted to the Department by refiners or distributors of gasoline shall be sampled and tested pursuant to methods established by the most current method of **ASTM D323**. Analysis of all fuel from pipeline, tanker, or other sources outside of the state shall be summarized and forwarded to the Department on a monthly basis. Such reports will be supplied on a form supplied by the Department;

(c) The Department reserves the right to audit records and to sample gasoline for the purposes of compliance. Samples of petroleum shall be sampled pursuant and tested by methods established by the most current method of **ASTM D323** or by methods established under the California Air Resources rule, **Title 13, §2251** or **Part 80 of Title 40** of the **Code of Federal Regulations — Fuel and Fuel Additives**.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-047200-0040~~.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 11-1989, f. 6-12-89, cert. ef. 6-15-89; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 20-1998, f. & cert. ef. 10-12-98; renumbered from OAR 340-022-0300.

DIVISION 260

REFRIGERANT RECYCLING AND OZONE DEPLETING SUBSTANCE REQUIREMENTS

Control of Ozone Depleting Chemicals Refrigerant Recycling

340-022-0405260-0010

Purpose and Applicability

The purpose of OAR ~~340-022-0405260-0010~~ through ~~340-022-0415260-0030~~ is to reduce the use of stratospheric ozone depleting chemicals, to recycle those chemicals already in use, and to encourage the use of less dangerous chemicals. The Environmental Quality Commission having determined that equipment for the recovery and recycling of chlorofluorocarbons from automobile air conditioners is affordable and available, intends that OAR ~~340-022-0405260-0010~~ through ~~340-022-0415260-0030~~ apply to persons handling automobile air conditioners.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 31-1990, f. & cert. ef. 8-15-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0405.

340-022-0410260-0020

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division. As used in OAR ~~340-022-0405~~ through ~~340-022-0415~~:

- (1) "Automobile" means any self-propelled motor vehicle used for transporting persons or commodities on public roads.
- (2) "Chlorofluorocarbons (CFC)" includes:
 - (a) CFC-11 (trichlorofluoromethane);
 - (b) CFC-12 (dichlorodifluoromethane);
 - (c) CFC-113 (trichlorotrifluoroethane);
 - (d) CFC-114 (dichlorotetrafluoroethane); and
 - (e) CFC-115 ((mono)chloropentafluoroethane).
- (3) "Commission" means the Environmental Quality Commission.
- (4) "Department" means the Department of Environmental Quality.
- (5) "Director" means the Director of the Department of Environmental Quality.
- (6) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 31-1990, f. & cert. ef. 8-15-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0410.

340-022-0415 260-0030

Requirement for Recycling Automobile Air Conditioning Coolant

- (1) Except as provided in section (2) of this rule no person shall engage in the business of installing, servicing, repairing, disposing of, or otherwise treating automobile air conditioners without recovering and recycling CFC.
- (2) Any automobile repair shop that has:
 - (a) Fewer than four employees; or
 - (b) Fewer than three covered bays shall comply with the provisions of section (1) of this rule after August 10, 1992.
- (3) Only recovery and recycling equipment that is certified by Underwriters Laboratory (UL) as meeting the requirements and specifications of **UL1963** and the **Society of Automotive Engineers (SAE) Standards, J1990 and J1991**, or other requirements and specifications determined by the Department as being equivalent, shall be used.
- (4) All recovery and recycling equipment shall be operated and maintained at full efficiency and effectiveness according to the manufacturer's directions and guidelines contained in **SAE Standard J1989**.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]
Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.635 & ORS 468A.640
Hist.: DEQ 31-1990, f. & cert. ef. 8-15-90; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-022-0415.

Ozone Depleting Substance Requirements

340-022-0420260-0040

Federal Regulations Adopted by Reference

(1) Except as provided in Section (2) of this rule, **40 CFR Part 82 (July 1, 1994)** is by this reference adopted and incorporated herein for major sources only, for purposes of implementing a stratospheric ozone protection program that meets the requirements of title VI of the Clean Air Act.

(2) Where "Administrator" or "EPA" appears in **40 CFR Part 82**, "Department" shall be substituted, except in any section of **40 CFR Part 82** for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.

(3) Where a discrepancy is determined to exist between OAR ~~340-022-0405260-0010~~ through ~~340-022-0415260-0030~~ and **40 CFR Part 82**, **40 CRF Part 82** will apply.

Stat. Auth.: ORS 468.020 & ORS 468A.310(2)

Stats. Implemented: ORS 468.310

Hist.: DEQ 32-1994, f. & cert. ef. 12-22-94; renumbered from OAR 340-022-0420.

DIVISION 262

RESIDENTIAL WOODHEATING

340-034-0001262-0010

Purpose

The purpose of this Division is to establish rules to control, reduce and prevent air pollution caused by residential woodheating emissions.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.460

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-034-0001.

340-034-0005262-0020

Definitions

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

- (1) "Administrator" means the administrator of the Environmental Protection Agency or the administrator's authorized representative.
- (2) "Antique Woodstove" means a woodstove built before 1940 that has an ornate construction and a current market value substantially higher than a common woodstove manufactured in the same time period.
- (3) "Commission" means the Environmental Quality Commission.
- (4) "Consumer" means any person who buys a woodstove for personal use.
- (5) "Cookstove" means an indoor woodburning appliance the design and primary purpose of which is to cook food.
- (6) "Curtailement" means a period during which woodburning is prohibited due to the existence of an air stagnation condition.
- (7) "Dealer" means any person engaged in selling wood-stoves to retailers or other dealers for resale. A dealer which is also an Oregon retailer shall be considered to be only a retailer for purposes of this Division.
- (8) "Destroy" means to demolish to such an extent that restoration is impossible.
- (9) "Department" means the Oregon Department of Environmental Quality.
- (10) "Director" means the Director of the Department or the Director's authorized delegates.
- (11) "EPA" means the United States Environmental Protection Agency.
- (12) "Federal Regulations" means **Volume 40 CFR, Part 60, Subpart AAA, Sections 60.530 through 60.539b**, dated **July 1, 1993**.
- (13) "Fireplace" means a framed opening made in a chimney to hold an open fire.
- (14) "Manufacturer" means any person who imports a woodstove, constructs a woodstove or parts for woodstoves.
- (15) "New Woodstove" means any woodstove that has not been sold, bargained, exchanged, given away or has not had its ownership transferred from the person who first acquired the woodstove from the manufacturer's dealer or agency, and has not been so used to have become what is commonly known as "second hand" within the ordinary meaning of that term.
- (16) "Pelletstove" means a woodburning heating appliance which uses wood pellets as its primary source of fuel.
- (17) "Retailer" means any person engaged in the sale of woodstoves directly to consumers.
- (18) "Used Woodstove" means any woodstove that has been sold bargained, exchanged, given away, or has had its ownership transferred from a retailer, manufacturer's dealer or agent to a consumer.
- (19) "Woodstove" or "Woodheater" means an enclosed, woodburning appliance capable of and intended for space heating and domestic water heating that meets all of the following criteria:
 - (a) An air-to-fuel ratio in the combustion chamber averaging less than 35-to-1 as determined by the test procedure prescribed in federal regulations, **40 CFR, Part 60, Subpart AAA, §60.534** performed at an accredited laboratory;
 - (b) A usable firebox volume of less than 20 cubic feet;

(c) A minimum burn rate less than 5 kg/hr as determined by the test procedure prescribed in federal regulations, **40 CFR, Part 60, Subpart AAA, §60.534** performed at an accredited laboratory; and

(d) A maximum weight of 800 kg. In determining the weight of an appliance for these purposes, fixtures and devices that are normally sold separately, such as flue pipe, chimney, heat distribution ducting, and masonry components that are not an integral part of the appliance or heat distribution ducting, shall not be included.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 11-1984, f. & ef. 6-26-84; DEQ5-1990, f. 3-7-90, cert. ef. 7-1-90; DEQ25-1991, f. & cert. ef. 11-13-91; Renumbered from 340-021-0100 DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 1-1994, f. & cert. ef. 1-3-94; renumbered from OAR 340-034-0005.

Woodstove Sales

340-034-0010262-0030

Requirements for Sale of Woodstoves

(1) Requirements applicable to the sale of new woodstoves:

(a) No person shall advertise to sell, offer to sell, or sell a new woodstove in Oregon unless the woodstove has been labeled for heating efficiency and tested, certified and labeled for emission performance in accordance with criteria, emission standards, and procedures specified in the federal regulations, **40 CFR, Part 60, Subpart AAA**;

(b) No manufacturer, dealer, retailer or individual shall alter the permanent certification label in any way from the label approved by the Administrator pursuant to federal regulations, **40 CFR, Part 60, Subpart AAA**;

(c) No manufacturer, dealer or retailer shall alter the removable label in any way from the label approved by the Administrator pursuant to federal regulations, **40 CFR, Part 60, Subpart AAA**.

(2) Requirements applicable for the sale of used woodstoves. A person shall not advertise to sell, offer to sell, or sell a used woodstove unless:

(a) The woodstove was certified by the Department or the Administrator on or after July 1, 1986, in accordance with emission performance and heating efficiency criteria applicable at the time of certification;

(b) The woodstove has permanently attached an emission performance label authorized by the Department or the EPA.

(3) Section (2) of this rule concerning used woodstoves that have not been certified shall not apply to the following:

(a) The selling by a consumer of a used woodstove that has not been certified by the Department to a person in the business of reusing, reclaiming or recycling scrap metal to be destroyed or used as scrap metal;

(b) The remittance of a used woodstove that has not been certified by the Department by a consumer to a retailer for the purpose of receiving a reduction in price on a new residential heating system.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.500

Hist.: DEQ 11-1984, f. & ef. 6-26-84; DEQ 5-1990, f. 3-7-90, cert. ef. 7-1-90; DEQ 25-1991, f. & cert. ef. 11-13-91; Renumbered from 340-021-0105; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 1-1994, f. & cert. ef. 1-3-94; renumbered from OAR 340-034-0010

340-034-0015262-0040

Exemptions

(1) A pelletstove is exempt from the following requirements:

(a) OAR 340-034-0050262-0110 through 340-034-0070262-0130, woodstove certification, and OAR 340-034-0010262-0030, requirements applicable to the sale of woodstoves;

(b) OAR 340-034-0010262-0030(2), requirements applicable to the sale of used woodstoves;

(c) OAR 340-034-0150262-0200 through 340-034-0175262-0250, woodburning curtailment; and

(d) OAR 340-034-0200262-0300 through 340-034-0215262-0330, woodstove requirements ~~applicable after December 31, 1994.~~

(2) An enclosed woodheating appliance capable of and intended for residential space heating or domestic water heating is exempt from OAR 340-034-0010262-0030, requirements applicable to the sale of woodstoves, and OAR 340-034-0050262-

~~3110~~ through ~~340-034-0070262-0130~~, woodstove certification, provided the manufacturer holds a valid letter of exemption from the Administrator which verifies that the appliance is not a woodstove or woodheater as defined in OAR ~~340-034-0005262-0020~~(19).

(3) An antique stove is exempt from the requirements of:

(a) OAR ~~340-034-0010262-0030~~(2), requirements applicable to the sale of used woodstoves; and

(b) OAR ~~340-034-0200262-0300~~ through ~~340-034-0215262-0330~~, woodstove requirements ~~applicable after December 31, 1994~~.

(4) A cookstove is exempt from the requirements of OAR Chapter 340, Division ~~34262~~, except for OAR ~~340-034-0150262-0200~~ through ~~340-034-0175262-0250~~, woodburning curtailment.

(5) A woodburning fireplace, woodstove or appliance operated within a household classified to be at less than or equal to 125 percent of the federal poverty level is exempt from the requirement of OAR ~~340-034-0150262-0200~~ through ~~340-034-0175262-0250~~, woodburning curtailment. The federal poverty level is published in the **Federal Register, Volume 56, Number 34, February 20, 1990, page 6859**, Department of Health and Human Services.

(6) A woodstove operated in a residence that is equipped solely with woodheat is exempt from the requirements of OAR ~~340-034-0150262-0200~~ through ~~340-034-0175262-0250~~, woodburning curtailment.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 11-1984, f. & ef. 6-26-84; DEQ 5-1990, f. 3-7-90, cert. ef. 7-1-90; DEQ 25-1991, f. & cert. ef. 11-13-91; Renumbered from 340-021-0110; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 1-1994, f. & cert. ef. 1-3-94; renumbered from OAR 340-034-0015.

340-034-0020262-0050

Civil Penalties

Violations of OAR Chapter 340, Division ~~34-262~~ are subject to OAR Chapter 340, Division 12, Enforcement Procedures and Civil Penalties.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-034-0020.

Woodstove Certification Program

340-034-0045262-0100

Applicability

(1) OAR ~~340-034-0045262-0100~~ through ~~340-034-0070262-0130~~ shall apply to any woodstove or woodheater.

(2) The following woodheating appliances are not subject to OAR ~~340-034-0045262-0100~~ through ~~340-034-0070262-0130~~:

(a) Open masonry fireplaces;

(b) Boilers;

(c) Furnaces; and

(d) Cookstoves.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 1-1994, f. & cert. ef. 1-3-94; renumbered from OAR 340-034-0045.

340-034-0050262-0110

Emissions Performance Standards and Certification

(1) Unless exempted by the Department under OAR ~~340-034-0015262-0040~~, new woodstoves advertised for sale, offered for sale or sold in Oregon between July 1, 1990 and June 30, 1992 shall be certified by the Administrator pursuant to federal

regulation as complying with the particulate matter emission limits specified in the federal regulations, **40 CFR, Part 60, Subpart AAA, §60.532(a)**.

(2) Unless exempted by the Department under OAR 340-034-0015262-0040, new woodstoves advertised for sale, offered for sale, or sold in Oregon on or after July 1, 1992 shall be certified by the Administrator pursuant to federal regulation as complying with the particulate matter emission limits specified in the federal regulations, **40 CFR, Part 40, Subpart AAA, §60.532(b)**.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 11-1984, f. & ef. 6-26-84; DEQ 5-1990, f. 3-7-90, cert. ef. 7-1-90; DEQ 25-1991, f. & cert. ef. 11-13-91; Renumbered from 340-021-0115; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 1-1994, f. & cert. ef. 1-3-94; renumbered from OAR 340-034-0050.

340-034-0060262-0120

General Certification Procedures

Any new woodstove sold in Oregon shall be considered to be in full compliance with Oregon emission performance standards and rated heating efficiency requirements if the manufacturer holds a valid Certificate of Compliance issued by the Administrator, pursuant to federal regulations, **40 CFR, Part 60, Subpart AAA**. Such a stove shall be considered Oregon certified without any further action by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 11-1984, f. & ef. 6-26-84; DEQ 5-1990, f. 3-7-90, cert. ef. 7-1-90; DEQ 25-1991, f. & cert. ef. 11-13-91; Renumbered from 340-021-0125; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 1-1994, f. & cert. ef. 1-3-94; renumbered from OAR 340-034-0060.

340-034-0070262-0130

Labeling Requirements

New woodstoves sold in Oregon shall have affixed to them:

(1) A permanent label, in accordance with federal regulations, **40 CFR, Part 60, Subpart AAA, §60.536**.

(2) A point-of-sale removable label in accordance with federal regulations, **40 CFR, Part 60, Subpart AAA, §60.536**.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 11-1984, f. & ef. 6-26-84; DEQ 5-1990, f. 3-7-90, cert. ef. 7-1-90; DEQ 25-1991, f. & cert. ef. 11-13-91; Renumbered from 340-021-0135; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 1-1994, f. & cert. ef. 1-3-94; renumbered from OAR 340-034-0070.

Woodburning Curtailment

340-034-0150262-0200

Applicability

OAR 340-034-0150262-0200 through 340-034-0175262-0250 shall apply to any portion of the state:

(1) Where the Department has determined that, under the requirements of the Clean Air Act, an enforceable woodburning curtailment program is required as an emission reduction control strategy for a PM₁₀ nonattainment area and the Department has determined that the local government or regional authority has failed to adopt or adequately implement the required woodburning curtailment program. In determining whether a local government or regional authority has failed to adequately adopt or implement a curtailment program, the Department shall determine if a local government or regional authority:

(a) Has adopted an ordinance that requires the curtailment of residential woodheating at forecasted air pollution levels which are consistent with the curtailment conditions and requirements specified in OAR 340-034-0155262-0210(1) and 340-034-0160262-0220(1) and (2);

(b) Is issuing on a daily basis curtailment advisories to the public consistent with OAR 340-034-0165262-0230; and

(c) Is conducting surveillance for compliance and is taking adequate enforcement actions consistent with OAR340-034-0170262-0240.

(2) Where the Department has determined that, under the requirements of the Clean Air Act, an enforceable woodburning curtailment program is required as an emission abatement strategy to respond to an air pollution emergency.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.515

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-034-0150.

340-034-0155262-0210

Determination of Air Stagnation Conditions

The Department shall utilize appropriate data and technology to develop methodology criteria for a curtailment program that:

(1) For use as an emission reduction control strategy or contingency plan for PM₁₀ nonattainment areas:

(a) Calls a Stage I advisory when the PM₁₀ standard is being approached; and

(b) Calls a Stage II advisory, when an exceedance of the PM₁₀ standard is forecasted to be imminent.

(2) For use as an emission abatement strategy in order to respond to an air pollution emergency:

(a) Calls an Alert when PM₁₀ alert levels have been reached and are forecasted to continue; and

(b) Calls a Warning when PM₁₀ warning levels have been reached and are forecasted to continue;

(c) Alert and Warning levels are specified in OAR Chapter 340, Division ~~27206~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.515

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-034-0155.

340-034-0160262-0220

Prohibition on Woodburning During Periods of Air Stagnation

(1) During any designated Stage I advisory, the operation of any uncertified woodstove, fireplace, or woodburning appliance shall be prohibited unless exempted under the provisions of OAR 340-034-0015262-0040.

(2) During any designated Stage II advisory, the operation of any woodstove, fireplace, or woodburning appliance shall be prohibited unless exempted under the provisions of OAR 340-034-0015262-0040.

(3) During any designated PM₁₀ Alert, the operation of any uncertified woodstove, fireplace, or woodburning appliance shall be prohibited unless exempted under the provisions of OAR 340-034-0015262-0040.

(4) During any designated PM₁₀ Warning, the operation of any woodstove, fireplace, or woodburning appliance shall be prohibited unless exempted under the provisions of OAR 340-034-0015262-0040.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.515

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-034-0160.

340-034-0165262-0230

Public Information Program

The Department or its designated representative shall implement a public information program to disseminate the daily air pollution advisory to the local community. The public information program shall include but may not be limited to the utilization of applicable local media including television, radio, and newspapers.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-043-0165.

340-034-0170-262-0240

Enforcement

(1) The Department or its designated representative shall monitor the level of compliance with curtailment requirements during designated periods of air stagnation.

(2) A rebuttable presumption of a violation shall arise if smoke is being emitted through a flue or chimney during a curtailment period unless the household from which smoke is being emitted has provided the Department or designated representative with information indicating that the household or its woodburning appliance is exempt from curtailment requirements in accordance with OAR340-034-0015262-0040.

(3) Any person claiming an exemption to OAR 340-034-0150262-0200 through 340-034-0175262-0250 in accordance with OAR340-034-0015262-0040 in response to a Notice of Noncompliance shall provide the Department with documentation which establishes eligibility for the exemption. The Department shall review the documentation and make a determination regarding the exemption status of the household, or woodheating appliance. The following documentation shall be submitted to the Department for review in order to establish exemption status under the criteria of OAR 340-034-0015262-0040:

(a) For households desiring low income exemption status a copy of the previous year tax returns. The tax return should reflect the total combined household income for the past year;

(b) A signed affidavit attesting to the sole source status of a home (see note);

(c) A signed affidavit attesting to the certification status of the home heating appliance (see note).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-034-0170.

340-034-0175262-0250

Suspension of Department Program

(1) The Department shall suspend the operation and enforcement of OAR340-034-0150262-0200 through 340-034-0170262-0240 in any area upon determination by the Department that the local government or regional air quality authority has adopted and is adequately implementing a woodburning curtailment program that is at least as stringent as the program outlined in OAR 340-034-0150262-0200 through 340-034-0170262-0240.

(2) In making a determination concerning the adequacy of a local or regional woodburning curtailment program, the Department shall consider whether or not the local government or regional authority:

(a) Has adopted an ordinance that requires the curtailment of residential woodheating at forecasted air pollution levels which are consistent with curtailment conditions specified in OAR 340-034-0155262-0210;

(b) Is issuing curtailment advisories to the public on a daily basis;

(c) Is conducting surveillance for compliance and is taking adequate enforcement actions;

(d) Any other information the Department determines is necessary to determine the adequacy of the curtailment program.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.515

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-034-0175.

Woodstove Removal Contingency Program for ~~PM₁₀~~ Nonattainment Areas

340-034-0200262-0300

Applicability

OAR340-034-0200262-0300 though 340-034-0215262-0330 shall apply to any area classified as a nonattainment area for PM₁₀ that does not achieve attainment by the applicable Clean Air Act deadline.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-034-0200.

340-034-0205-262-0310

Removal and Destruction of Uncertified Stove Upon Sale of Home

Except as provided for by OAR 340-~~034-0015~~262-0040, any uncertified woodstove shall be removed and destroyed by the seller upon the sale of a home.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-034-0205.

340-034-0210262-0320

Home Seller's Responsibility to Verify Stove Destruction

Any person selling a home which contains an uncertified woodstove shall provide to the Department or the Department's designated representative prior to the sale of the home, a copy of a receipt from a scrap metal dealer verifying that the stove has been destroyed.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95; renumbered from OAR 340-034-0210.

340-034-0215262-0330

Home Seller's Responsibility to Disclose

Any person selling a home in which an uncertified woodstove is present shall disclose to any potential buyer, buyer's agent or buyer's representative that the woodstove is uncertified, and must be removed and destroyed upon sale of the home.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-034-0215.

DIVISION 264

RULES FOR OPEN BURNING

340-023-0022264-0010

How to Use These Open Burning Rules

(1) This Division classifies all open burning into one of seven classes: Agricultural; Commercial; Construction; Demolition (which includes land clearing); Domestic (which includes burning commonly called "backyard burning" and burning of yard debris); Industrial; or Slash. Except for field burning within the Willamette Valley which is regulated by OAR Chapter 340, Division ~~26-266~~ and slash burning which is controlled by the forest practices smoke management plan administered by the Oregon Department of Forestry, this Division prescribes requirements for and prohibitions of open burning for every location in the state. Generally, if a class of open burning is not specifically prohibited in a given location, then it is authorized subject to OAR ~~340-023-0040264-0050~~ and ~~340-023-0042264-0060~~ and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. In addition, some practices specifically mentioned in OAR ~~340-023-0035264-0040~~ are exempted from this Division.

(2) Organization of rules:

(a) OAR ~~340-023-0025264-0020~~ is the Policy statement of the Environmental Quality Commission setting forth the goals of this Division;

(b) OAR ~~340-023-0030264-0030~~ contains definitions of terms which have specialized meanings within the context of this Division;

(c) OAR ~~340-023-0035264-0040~~ lists specific types of open burning and practices which are not governed by this Division;

(d) OAR ~~340-023-0040264-0050~~ lists general requirements which are usually applicable to any open burning governed by this Division;

(e) OAR ~~340-023-0042264-0060~~ lists general prohibitions which apply to most open burning;

(f) OAR ~~340-023-0043264-0070~~ establishes the open burning schedule based on air quality and meteorological conditions as required by ORS 468A.570;

(g) OAR ~~340-023-0045264-0080~~ indexes each county of the state to a specific rule giving specific restrictions for each class of open burning applicable in the county;

(h) OAR ~~340-023-0055264-0100~~ through ~~340-023-0090264-0170~~ are rules which give specific restrictions to open burning for each class of open burning in the counties named in each rule;

(i) OAR ~~340-023-0100264-0180~~ provides for a letter permit authorization for open burning under certain circumstances in which open burning otherwise would be prohibited;

(j) OAR ~~340-023-0105264-0190~~ establishes criteria for use of forced-air pit incineration;

~~(k) OAR 340-023-0110 requires fire permit issuing agencies to keep records and reports;~~

~~(k) OAR 340-023-0115264-0200~~ contains the legal description of Open Burning Control areas and maps which generally depict these areas.

(3) Use of this Division will be made easier by the following procedure:

(a) Read OAR ~~340-023-0040264-0050~~ and ~~340-023-0042264-0060~~ to understand general requirements and prohibitions which apply to all burning which is governed by this Division;

(b) In OAR ~~340-023-0030264-0030~~ read the definitions of Agricultural, Commercial, Construction, Demolition, Domestic and Industrial open burning plus the definitions of land clearing and yard debris to determine the type of burning of concern. Also read OAR ~~340-023-0035264-0040~~ to determine if the type of burning is exempted from this Division;

(c) Locate the rule (OAR ~~340-023-0055264-0100~~ through ~~340-023-0090264-0170~~) which governs the county in which burning is to take place. OAR ~~340-023-0045264-0080~~ is an index to the county rules;

(d) Read the sections of the county rules which apply to the type of burning to be accomplished;

(e) If not prohibited by this Division, obtain a fire permit from the fire district, county court or county commissioners before conducting any burning;

(f) If the type of burning proposed is prohibited by this Division, refer to OAR 340-023-0100264-0180 (Letter Permits) or 340-023-0105363-0190 (Forced Air Pit Incinerators) for a possible alternative.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468, ORS 468A & ORS 477

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0022.

340-023-0025264-0020

Policy

In order to restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state, it is the policy of the Environmental Quality Commission:

- (1) To eliminate open burning disposal practices where alternative disposal methods are feasible and practicable;
- (2) To encourage the development of alternative disposal methods;
- (3) To emphasize resource recovery;
- (4) To regulate specified types of open burning;
- (5) To encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible; and
- (6) To require specific programs and timetables for compliance with this Division.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 123, f. & ef. 10-20-76; DEQ 27-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0025.

340-023-0030264-0030

Definitions

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

(1) "Agricultural Burning for Disease or Pest Control" means open burning of agricultural waste infected or infested with a disease or pest for which no other practicable control exists. Pests or diseases for which no practicable control alternative exists shall include only those pests and diseases identified by the County Extension Service or Oregon Department of Agriculture.

(2) "Agricultural Operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the raising and sale of livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose; it does not include the construction and use of dwellings customarily provided in conjunction with the agricultural operation.

(3) "Agricultural Open Burning" means the open burning of any agricultural waste except as provided in OAR 340-023-0035264-0040(5).

(4) "Agricultural Waste" means any waste material actually generated or used by an agricultural operation, excluding those materials described in OAR 340-023-0042264-0060(2).

(5) "Auxiliary Combustion Equipment" includes, but is not limited to, fans or air curtain incinerators.

(6) "Combustion Promoting Materials" include, but are not limited to, propane, diesel oil, or jellied diesel.

(7) "Commercial Open Burning" means the open burning of any commercial waste.

(8) "Commercial Waste" means:

(a) Any material except:

(A) Agricultural waste;

(B) Construction waste;

(C) Demolition waste;

(D) Domestic waste;

(E) Industrial waste; and

(F) Slash.

(b) Examples of commercial waste are waste material from offices, wholesale or retail yards and outlets, warehouses, restaurants, mobile home parks, and dwellings containing more than four family living units such as apartments, condominiums, hotels, motels or dormitories.

(9) "Commission" means the Environmental Quality Commission.

(10) "Construction Open Burning" means the open burning of any construction waste.

(11) "Construction Waste" means any waste material actually resulting from or produced by a building or construction project. Examples of construction waste are wood, lumber, paper, crating and packing materials used during construction, materials left after completion of construction and materials collected during cleanup of a construction site.

(12) "Demolition Open Burning" means the open burning of demolition waste.

(13) "Demolition Waste" means any material actually resulting from or produced by the complete or partial destruction or tearing down of any man-made structure or the clearing of any site for land improvement or cleanup excluding yard debris (domestic waste) and agricultural waste.

(14) "Department" means the Department of Environmental Quality.

(15) "Director" means the Director of the Department or delegated employee representative pursuant to ORS 468.045(3).

(16) "Domestic Open Burning" means the open burning of any domestic waste.

(17) "Domestic Waste" means household waste material, which includes paper, cardboard, clothing, yard debris, or other material, actually generated in or around a dwelling of four or fewer family living units, or on the real property appurtenant to the dwelling. Such waste materials actually generated in or around a dwelling of more than four family living units are commercial wastes. Once domestic waste is removed from the property of origin it becomes commercial waste.

(18) "Fire Hazard" means the presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare, or to adjacent lands.

(19) "Forced-Air Pit Incineration" means any method or device by which burning is accomplished in a subsurface pit or above ground enclosure using:

(a) Combustion air supplied under positive draft by an air curtain; and

(b) Combustion air controlled in such a manner as to optimize combustion efficiency and minimize the emission of air contaminants.

(20) "Industrial Open Burning" means the open burning of any industrial waste.

(21) "Industrial Waste" means any waste material, including process waste, produced as the direct result of any manufacturing or industrial process.

(22) "Land Clearing" means the removal of trees, brush, logs, stumps, debris or man made structures for the purpose of site clean-up or site preparation. All waste material generated by land clearing is demolition waste except those materials which are included in the definitions of agricultural wastes, yard debris (domestic waste), and slash.

(23) "Letter Permit" means an Air Contaminant Discharge Permit issued pursuant to OAR 340-023-0100264-0180.

(24) "Local Jurisdiction" means:

(a) The local fire permit issuing authority; or

(b) Local governmental entity with authority to regulate by law or ordinance.

(25) "Open Burning" means:

(a) Burning in open outdoor fires;

(b) Burning in burn barrels;

(c) Burning in incinerators which do not meet the emission limitations specified for ~~refuse burning equipment solid and infectious waste incinerators~~ in OAR 340-021-0025230-0100 through 340-230-0150; and

(d) Any other outdoor burning which occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

(26) "Open Burning Control Area" means an area established to control specific open burning practices or to maintain specific open burning standards which may be more stringent than those established for other areas of the state. Open burning control areas in the state are described in OAR 340-023-0115264-0200. The open burning control areas in the state are:

(a) All areas in or within three miles of the corporate city limits of cities having a population of 4,000 or more, as further described in OAR 340-023-0115264-0200(1) and generally shown in **Figure 2** thereof;

(b) The Coos Bay open burning control area, as described in OAR 340-023-0115264-0200(2) and generally shown in **Figure 3** thereof;

(c) The Rogue Basin open burning control area, as described in OAR 340-~~023-0115~~264-0200(3) and generally shown in **Figure 4** thereof;

(d) The Umpqua Basin open burning control area, as described in OAR 340-~~023-0115~~264-0200(4) and generally shown in **Figure 5** thereof;

(e) The Willamette Valley open burning control area as described in OAR 340-~~023-0115~~264-0200(5) and generally shown in **Figure 2** thereof.

(27) "Person" means any individual, corporation, association, firm, partnership, joint stock company, public or municipal corporation, political subdivision, the state or any agency thereof, or the federal government or any agency thereof.

(28) "Population" means the annual population estimate of incorporated cities within the State of Oregon issued by the Center for Population Research and Census, Portland State University, Portland, Oregon.

(29) "Slash" means forest debris or woody vegetation to be burned under the Oregon Smoke Management Plan administered by the Oregon Department of Forestry pursuant to ORS 477.515. The burning of slash must be related to the management of forest land used for growing and harvesting timber.

(30) "Ventilation Index" means a number calculated by the Department relating to the ability of the atmosphere to disperse pollutants. The ventilation index is the product of the measured or estimated meteorological mixing depth in hundreds of feet and the measured or estimated average wind speed in knots through the mixed layer.

(31) "Waste" includes any useless or discarded materials. Each waste is categorized in this Division as one and only one of the following types:

- (a) Agricultural;
- (b) Commercial;
- (c) Construction;
- (d) Demolition;
- (e) Domestic;
- (f) Industrial; or
- (g) Slash.

(32) "Yard Debris" means wood, needle or leaf materials from trees, shrubs or plants from the real property appurtenant to a dwelling of not more than four family living units so long as such debris remains on the property of origin. Once yard debris is removed from the property of origin it becomes commercial waste. Yard debris is included in the definition of domestic waste.

[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-~~020-0047~~200-0040.]

[ED. NOTE: The Figure(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 468, ORS 468A & ORS 477

Stats. Implemented: ORS 468A.555

Hist.: DEQ 123, f. & ef. 10-20-76; DEQ 23-1979, f. & ef. 7-5-79; DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0030.

~~340-023-0035~~264-0040

Exemptions, Statewide

This Division shall not apply to:

(1) Fires set for traditional recreational purposes and traditional ceremonial occasions for which a fire is appropriate provided that no materials which may emit dense smoke or noxious odors as prohibited in OAR 340-~~023-0042~~264-0060(2) are burned.

(2) The operation of any barbecue equipment.

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

(4) Agricultural open burning conducted east of the crest of the Cascade Mountains including all of Hood River and Klamath Counties.

(5) Open field burning, propane flaming, and stack and pile burning in the Willamette Valley between the crests of the Cascade and Coast Ranges pursuant to OAR Chapter 340, Division ~~26266~~, Rules for Field Burning.

(6) Open burning on forest land permitted under the forest practices Smoke Management Plan filed with the Secretary of State pursuant to ORS 477.515.

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468, ORS 468A & ORS 477

Stats. Implemented: ORS 468A.555

Hist.: DEQ 123, f. & ef. 10-20-76; DEQ 23-1979, f. & ef. 7-5-79; DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 6-1992, f. & cert. ef. 3-11-92; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0035.

340-023-0040264-0050

General Requirements Statewide

This rule applies to all open burning within the purview of this Division whether authorized, permitted or prohibited by this Division, unless expressly limited therein, or by any other rule, regulation, permit, ordinance, order or decree of the Commission or other agency having jurisdiction:

(1) All open burning shall be constantly attended by a responsible person or an expressly authorized agent until extinguished.

(2) Each person who is in ownership, control or custody of the real property on which open burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, shall be considered a responsible person for the open burning. Any person who causes or allows open burning to be initiated or maintained shall also be considered a responsible person.

(3) It shall be the duty of each responsible person to promptly extinguish any burning which is in violation of any rule of the Commission or of any permit issued by the Department unless the Department has given written approval to such responsible person to use auxiliary combustion equipment or combustion promoting materials to minimize smoke production and the responsible person complies with the requirements in the written approval. However, nothing in this section shall be construed to authorize any violation of OAR 340-023-0042264-0060(1) or (2).

(4) To promote efficient burning and prevent excessive emissions of smoke, each responsible person shall, except where appropriate to agricultural open burning:

(a) Assure that all combustible material is dried to the extent practicable. This action shall include covering the combustible material when practicable to protect the material from deposition of moisture in any form, including precipitation or dew. However, nothing in this section shall be construed to authorize any violation of OAR 340-023-0042264-0060(1) or (2);

(b) Loosely stack or windrow the combustible material in such a manner as to eliminate dirt, rocks and other noncombustible material and promote an adequate air supply to the burning pile, and provide the necessary tools and equipment for the purpose;

(c) Periodically restack or feed the burning pile and insure that combustion is essentially completed and smoldering fires are prevented and provide the necessary tools and equipment for the purpose.

(5) Notwithstanding OAR 340-023-0035264-0040(4), each person sanitizing perennial or annual grass seed crops by open burning, in counties outside the Willamette Valley, shall pay the Department \$4 for each acre burned:

(a) The Department may contract with counties, rural fire protection districts, or other responsible individuals for the collection of the fees;

(b) All fees collected under this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund.

(6) Open burning in compliance with this Division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order, or decree of this or any other governmental entity having jurisdiction.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 123, f. & ef. 10-20-76; DEQ 23-1979, f. & ef. 7-5-79; DEQ 27-1981, f. & ef. 9-8-81; DEQ 6-1992, f. & cert. ef. 3-11-92; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0040.

340-023-0042264-0060

General Prohibitions Statewide

This rule applies to all open burning within the purview of this Division whether authorized, permitted or prohibited by this Division, unless expressly limited therein, or by any other rule, regulation, permit, ordinance, order or decree of the Commission or other agency having jurisdiction:

(1) No person shall cause or allow to be initiated or maintained any open burning which interferes unreasonably with enjoyment of life or property or which creates any of the following:

- (a) A private nuisance, except as created by agricultural open burning;
- (b) A public nuisance, except as created by agricultural open burning; or
- (c) A hazard to public safety.

(2) No person shall cause or allow to be initiated or maintained any open burning of any wet garbage, plastic, wire insulation, automobile part, asphalt, petroleum product, petroleum treated material, rubber product, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or of any other material which normally emits dense smoke or noxious odors.

(3) No person shall cause or allow to be initiated or maintained any open burning of any material in any part of the state on any day or at any time if the Department has notified the State Fire Marshal that such open burning is prohibited because of meteorological or air quality conditions pursuant to OAR ~~340-023-0043264-0070~~.

(4) No fire permit issuing agency shall issue any fire permit which purports to authorize any open burning of any material at any location on any day or at any time if the Department has notified the State Fire Marshal that such open burning is prohibited because of meteorological or air quality conditions. However, the failure of any fire permit issuing agency to comply shall not excuse any person from complying with this section.

(5) No person shall cause or allow to be initiated or maintained any open burning authorized by this Division during hours other than specified by the Department.

(6) No person shall cause or allow to be initiated or maintained any open burning at any solid waste disposal site unless authorized by a Solid Waste Permit issued pursuant to OAR 340-093-0050.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468A, ORS 468.020

Stats. Implemented: ORS 459.205

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 9-1996, f. & cert. ef. 7-10-96; renumbered from OAR 340-023-0042.

~~340-023-0043264-0070~~

Open Burning Schedule

Pursuant to ORS 468A.570, 476.380, 477.520 and 478.960 the following open burning schedule shall be administered by the Department:

(1) Mandatory Prohibition Based on Adverse Air Quality Conditions:

(a) The Department shall notify the State Fire Marshal that all open burning shall be prohibited in all or a specified part of the state for the times and locations which the Department has declared:

- (A) A particulate or sulfur dioxide alert pursuant to OAR ~~340-027-0010206-0030~~(2);
- (B) A particulate or sulfur dioxide warning pursuant to OAR ~~340-027-0010206-0030~~(3); or
- (C) An emergency for any air contaminant pursuant to OAR ~~340-027-0010206-0030~~(4).

(b) All open burning shall be prohibited until the Department notifies the State Fire Marshal that the episode and prohibition have been declared to have terminated.

(2) Discretionary Prohibition or Limitation Based on Meteorological Conditions:

(a) The Department may notify the State Fire Marshal that all or specified types of open burning shall be prohibited or limited in all or any specified parts of the state based on any one or more of the following criteria affecting that part of the state:

- (A) An Air Stagnation Advisory issued by the National Weather Service;
- (B) The daily maximum ventilation index calculated by the Department for the Willamette Valley Open Burning Control Area or Umpqua Basin Open Burning Control Area is less than 200;
- (C) The daily maximum ventilation index calculated by the Department for the Rogue Basin Open Burning Control Area is less than:

(i) 200 for burning of orchard prunings during February 1992 and February 1993 on days with a green woodburning advisory;

(ii) 200 for agricultural burning for disease or pest control on days with a green woodburning advisory;

(iii) 400 for all other open burning.

(D) The daily maximum ventilation index calculated by the Department for any area outside the Willamette Valley, Rogue Basin and Umpqua Basin open burning control areas is less than 150;

(E) For regulation of burning of yard debris in urban areas, consideration of the amount of precipitation, expected during the day; or

(F) Any other relevant factor.

(b) All open burning so prohibited or limited shall be prohibited or limited until the Department notifies the State Fire Marshal that the prohibition or limitation has been terminated;

(c) In making the determination of whether or not to prohibit or limit open burning pursuant to this section the Department shall consider:

(A) The policy of the state set forth in ORS 468A.010;

(B) The relevant criteria set forth in ORS 468A.025(2);

(C) The extent and types of materials available to be open burned;

(D) In the case of Agricultural open burning, the recommendations received from any local agricultural smoke management organization; and

(E) Any other relevant factor.

(d) In making the determination of whether or not to prohibit or limit any open burning pursuant to this section the Department shall give first priority to the burning of perennial grass seed crop used for grass seed production, second priority for annual grass seed crop used for grass seed production, third priority to grain crop burning and fourth priority to all other burning.

(3) Unless and until prohibited or limited pursuant to section (1) or (2) of this rule, open burning shall be allowed during a day, so long as it is not prohibited by, and is conducted consistent with the other rules in this Division and the requirements and prohibitions of local jurisdiction and the State Fire Marshal.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468, ORS 468A & ORS 477

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0043.

~~340-023-0045264-0080~~

County Listing of Specific Open Burning Rules

Except as otherwise provided, in addition to the general requirements and prohibitions listed in ~~OAR 340-023-0040264-0050~~ and ~~340-023-0042264-0060~~, specific prohibitions of Agricultural, Commercial, Construction, Demolition, Domestic, and Industrial open burning are listed in separate rules for each county. The following list identifies the rule where prohibitions of specific types of open burning applicable to a given county may be found:

(1) Baker County — ~~OAR 340-003-0055264-0100.~~

(2) Benton County — ~~OAR 340-023-0060264-0110.~~

(3) Clackamas County — ~~OAR 340-023-0065264-01120.~~

(4) Clatsop County — ~~OAR 340-023-0055264-0100.~~

(5) Columbia County — ~~OAR 340-023-0080264-0150.~~

(6) Coos County — ~~OAR 340-023-0090264-0170.~~

(7) Crook County — ~~OAR 340-023-0055264-0100.~~

(8) Curry County — ~~OAR 230-340-023-0055264-0100.~~

(9) Deschutes County — ~~OAR 340-023-0055264-0100.~~

(10) Douglas County — ~~OAR 340-023-0090264-0170.~~

(11) Gilliam County — ~~OAR 340-023-0055264-0100.~~

(12) Grant County — ~~OAR 340-023-0055264-0100.~~

(13) Harney County — ~~OAR 340-023-0055264-0100.~~

(14) Hood River County — ~~OAR 340-023-0055264-0100.~~

- (15) Jackson County — OAR 340-023-~~0090~~264-0170.
- (16) Jefferson County — OAR 340-023-~~0055~~264-0100.
- (17) Josephine County — OAR 340-023-~~0090~~264-0170.
- (18) Klamath County — OAR 340-023-~~0055~~264-0100.
- (19) Lake County — OAR 340-023-~~0055~~264-0100.
- (20) Lane County — OAR 340-023-~~0085~~264-0160.
- (21) Lincoln County — OAR 340-023-~~0055~~264-0100.
- (22) Linn County — OAR 340-023-~~0060~~264-0110.
- (23) Malheur County — OAR 340-023-~~0055~~264-0100.
- (24) Marion County — OAR 340-023-~~0060~~264-0110.
- (25) Morrow County — OAR 340-023-~~0055~~264-0100.
- (26) Multnomah County — OAR 340-023-~~0070~~264-0130.
- (27) Polk County — OAR 340-023-~~0060~~264-0110.
- (28) Sherman County — OAR 340-023-~~0055~~264-0100.
- (29) Tillamook County — OAR 340-023-~~0055~~264-0100.
- (30) Umatilla County — OAR 340-023-~~0055~~264-0100.
- (31) Union County — OAR 340-023-~~0055~~264-0100.
- (32) Wallowa County — OAR 340-023-~~0055~~264-0100.
- (33) Wasco County — OAR 340-023-~~0055~~264-0100.
- (34) Washington County — OAR 340-023-~~0075~~264-0140.
- (35) Wheeler County — OAR 340-023-~~0055~~264-0100.
- (36) Yamhill County — OAR 340-023-~~0060~~264-0110.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-~~0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented ORS 468A.555

Hist.: DEQ 123, f. & ef. 10-20-76; DEQ 23-1979, f. & ef. 7-5-79; DEQ 1-1981(Temp), f. & ef. 1-9-81; DEQ 7-1981(Temp), f. & ef. 2-17-81; DEQ 8-1981(Temp), f. & ef. 3-13-81; DEQ 27-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0045.

Open Burning Prohibitions

~~340-023-0055~~264-0100

Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties

Open burning prohibitions for the counties of Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler:

(1) Industrial open burning is prohibited except as provided in OAR 340-023-~~0100~~264-0180.

(2) Agricultural open burning:

(a) In Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler Counties, agricultural open burning is allowed under this Division subject to OAR 340-023-~~0040~~264-0050(5);

(b) In Clatsop, Curry, Lincoln and Tillamook Counties agricultural open burning is allowed subject to OAR 340-023-~~0040~~264-0050, 340-023-~~0042~~264-0060 and 340-023-~~0043~~264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is allowed subject to OAR 340-023-~~0040~~264-0050, 340-023-~~0042~~264-0060 and 340-023-~~0043~~264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal, except that, unless authorized pursuant to OAR 340-023-~~0100~~264-0180, all commercial open burning is prohibited in or within three miles of the corporate city limits of the following cities:

(a) In Baker County, the City of Baker;

(b) In Clatsop County, the Cities of Astoria and Seaside;

(c) In Crook County, the City of Prineville;

(d) In Curry County, the City of Brookings;

- (e) In Deschutes County, the Cities of Bend and Redmond;
- (f) In Hood River County, the City of Hood River;
- (g) In Klamath County, the City of Klamath Falls;
- (h) In Lincoln County, the Cities of Lincoln City and Newport;
- (i) In Malheur County, the City of Ontario;
- (j) In Umatilla County, the Cities of Hermiston, Milton-Freewater and Pendleton;
- (k) In Union County, the City of La Grande;
- (l) In Wasco County, the City of The Dalles.

(4) Construction and Demolition open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~, and ~~340-023-0043264-0070~~, except that, unless authorized pursuant to OAR ~~340-023-0100264-0180~~, Construction and Demolition open burning is prohibited in or within three miles of the corporate city limits of the following cities:

- (a) In Baker County, the City of Baker;
- (b) In Clatsop County, the City of Astoria;
- (c) In Crook County, the City of Prineville;
- (d) In Curry County, the City of Brookings;
- (e) In Deschutes County, the Cities of Bend and Redmond;
- (f) In Hood River County, the City of Hood River;
- (g) In Klamath County, the City of Klamath Falls;
- (h) In Malheur County, the City of Ontario;
- (i) In Umatilla County, the Cities of Hermiston, Milton-Freewater and Pendleton;
- (j) In Union County, the City of La Grande;
- (k) In Wasco County, the City of The Dalles.

(5) Domestic open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, and OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~ and ~~340-023-0043264-0070~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 6-1992, f. & cert. ef. 3-11-92; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0055.

~~340-023-0060264-0110~~

Benton, Linn, Marion, Polk, and Yamhill Counties

Open burning prohibitions for Benton, Linn, Marion, Polk, and Yamhill Counties which form a part of the Willamette Valley open burning control area described in OAR ~~340-023-0115264-0200~~:

(1) Industrial open burning is prohibited except as provided in OAR ~~340-023-0100264-0180~~.

(2) Agricultural open burning is allowed subject to OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~ and ~~340-023-0043264-0070~~, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day;

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps shall be handled in accordance with OAR ~~340-023-0040264-0050~~(4)(c) and may be allowed, without addition of new waste material, to burn after hours and into prohibition condition days.

(3) Commercial open burning is prohibited except as provided in OAR ~~340-023-0100264-0180~~.

(4) Construction and Demolition open burning is allowed outside of special control areas subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~ and ~~340-023-0043264-0070~~. Unless authorized pursuant to OAR ~~340-023-0100264-0180~~, Construction and Demolition open burning is prohibited within special control areas including the following:

(a) Areas in or within six miles of the corporate city limit of:

(A) In Marion County, the Cities of Salem and Keiser;

(B) In Polk County, the City of Salem.

(b) Areas in or within three miles of the corporate city limit of:

- (A) In Benton County, the Cities of Albany, Corvallis and Philomath;
- (B) In Linn County, the Cities of Albany, Brownsville, Harrisburg, Lebanon, Mill City and Sweet Home;
- (C) In Marion County the Cities of Aumsville, Gervais, Hubbard, Jefferson, Mill City, Mt. Angel, Silverton, Stayton, Sublimity, Turner and Woodburn;
- (D) In Polk County, the Cities of Dallas, Independence, Monmouth and Willamina;
- (E) In Yamhill County, the Cities of Amity, Carlton, Dayton, Dundee, Lafayette, McMinnville, Newberg, Sheridan and Willamina.

(5) Domestic open burning:

(a) As generally depicted in **Figure 1** of OAR 340-023-0115264-0200, domestic open burning is prohibited in the special control areas named in section (4) of this rule except that open burning of yard debris is allowed beginning March first and ending June 15th inclusive, and beginning October 1st and ending December 15th, inclusive, subject to OAR 340-023-0040264-0050 and 340-023-0042264-0060 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(b) Domestic open burning is allowed outside of special control areas named in section (4) of this rule subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(c) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by the Department pursuant to OAR 340-023-0043264-0070.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[ED. NOTE: The Figure(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 6-1992, f. & cert. ef. 3-11-92; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0060.

340-023-0065264-0120

Clackamas County

Open burning prohibitions for Clackamas County:

(1) Industrial open burning is prohibited except as provided in OAR 340-023-0100264-0180.

(2) Agricultural open burning is allowed subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day;

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps shall be handled in accordance with OAR 340-023-0040264-0050(4)(c) and may be allowed, without addition of new waste material, to burn after hours and into prohibition condition days.

(3) Commercial open burning is prohibited except as may be provided by OAR 340-023-0100264-0180.

(4) Construction and Demolition open burning is allowed outside of special control areas subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. Unless authorized pursuant to OAR 340-023-0100264-0180, Construction and Demolition open burning is prohibited within special control areas including the following:

(a) Areas in or within six miles of the corporate city limits of Gladstone, Happy Valley, Lake Oswego, Milwaukie, Oregon City, Portland, Rivergrove, Tualatin, West Linn and Wilsonville;

(b) Areas in or within three miles of the corporate city limits of Canby, Estacada, Gresham, Molalla and Sandy.

(5) Domestic open burning:

(a) Those areas where domestic burning is always prohibited (unless authorized under 340-023-0100264-0180):

Beginning at the trisection of the Clackamas-Multnomah-Washington County Line; thence east and then northerly and then east following the Clackamas-Multnomah County Line to the intersection with the northwest corner of Section 27, T1S, R2E; thence south to the midpoint of the western boundary of Section 3, T2S, R2E; thence on a line east approximately 1/4 of a mile; thence south to the southern boundary of Section 3, T2S, R2E and the corner of Camp Withycombe (Oregon National Guard); thence west approximately 1/4 mile to the midpoint of the southern boundary of Section 3, T2S, R2E; thence on a line

outh to the Clackamas River and the ~~Metropolitan Service District (METRO)~~ Metro Boundary as defined in Oregon Revised Statutes (ORS) Chapter 268.125; thence following the ~~METRO~~ Metro Boundary first southerly and then westerly to the intersection with the Willamette River, excepting that portion listed in subsection (b)(2); thence northeasterly along the Willamette River to the confluence with the Tualatin River; thence northwesterly along the Tualatin River to the intersection with U.S. Interstate Highway 205 (I-205); thence westerly along I-205 to the intersection with the Clackamas-Washington County Line; thence north along the Clackamas-Washington County Line to the trisection of the Clackamas-Multnomah-Washington County Line, the point of beginning.

(b) Those areas where domestic open burning is prohibited except for the burning of yard debris between March 1 and June 15, and between October 1 and December 15, subject to OAR 340-~~023-0040~~264-0050 through OAR 340-264-0070, -~~0042, and -0043~~ and the requirements and prohibitions of local jurisdictions and the State Fire Marshall, are the areas that lie within both Clackamas County and the ~~METRO~~ Metro Boundary and are not included in ~~OAR 340-023-0065~~ paragraph (a) of this section. Specifically, those areas are listed as follows:

(A) The area beginning at the point on the Clackamas-Washington County Line where it is intersected by I-205; thence easterly along I-205 to the intersection with the Tualatin River; thence southeasterly along the Tualatin River to the confluence with the Willamette River; thence southerly along the Willamette River to the intersection with the northern boundary of Section 15, T3S, R1E; thence west to the northwest corner of Section 15, T3S, R1E; thence north to the northwest corner of section 10, T3S, R1E; thence west to the northwest corner of Section 9, T3S, R1E; thence north to the northwest corner of Section 4, T3S, R1E; thence west to the intersection with the Clackamas-Washington County Line; thence north to the intersection with I-205, the point of beginning.

(B) The area bounded by Henrici Road on the south; Highway 213 on the west; Beaver Creek Road on the east; and the southern boundary of Clackamas Community College on the north.

(C) The area beginning at the point where the Clackamas-Multnomah County Line intersects the northwest corner of Section 27, T1S, R2E; thence south to the midpoint of the western boundary of Section 3, T2S, R2E; thence on a line east approximately 1/4 of a mile; thence south to the southern boundary of Section 3, T2S, R2E and the corner of Camp Withycombe; thence west 1/4 mile to the midpoint of the southern boundary of Section 3, T2S, R2E; thence on a line south to the Clackamas River; thence easterly along the Clackamas River to the intersection with the western boundary of Section 18, T2S, R3E; thence north to the northwest corner of Section 18, T2S, R3E; thence east to the northwest corner of Section 14, T2S, R3E; thence north to the northwest corner of Section 11, T2S, R3E; thence east to the intersection with Epperson Road; thence north-northwesterly along Epperson Road to the intersection with the Clackamas-Multnomah County Line at the northern boundary of Section 29, T1S, R2E; thence west along the county line to the northwest corner of Section 27, T1S, R2E, the point of beginning.

(c) Domestic open burning is allowed in all other areas of Clackamas County subject to OAR 340-~~023-0040~~264-0050 and 340-~~023-0042~~264-0060 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(d) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-~~023-0043~~264-0070.

[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-~~020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 6-1992, f. & cert. ef. 3-11-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-023-0065.

340-023-0070264-0130

Multnomah County

Open burning prohibitions for Multnomah County:

(1) Industrial open burning is prohibited except as provided in OAR 340-~~023-0100~~264-0180.

(2) Agricultural open burning is allowed subject to OAR 340-~~023-0040~~264-0050, 340-~~023-0042~~264-0060 and 340-~~023-0043~~264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day;

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps shall be handled in accordance with OAR 340-023-0040264-0050(4)(c) and may be allowed, without addition of new waste material, to burn after hours and into prohibition condition days.

(3) Commercial open burning is prohibited except as provided in OAR 340-023-0100264-0180.

(4) Construction and Demolition open burning, unless authorized pursuant to OAR 340-023-0100264-0180, is prohibited west of the Sandy River but is allowed east of the Sandy River subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Domestic open burning:

(a) Those areas where open burning is always prohibited (unless authorized by 340-023-0100264-0180):

(A) The area encompassed by the line beginning at the point where the Multnomah, Clackamas, and Washington County lines meet at a trisection; thence east and then north and then east along the Multnomah-Clackamas County Line to the intersection with SE 172nd Avenue; thence north along SE 172nd Avenue to the intersection with SE Foster Road; thence southeasterly along SE Foster Road to the intersection with Jenne Road; thence northeasterly along Jenne Road to the intersection with SE 174th Avenue; thence north along SE 174th Avenue to the intersection with SE Marie Street; thence east along SE Marie Street to the intersection with SE 182nd Avenue; thence north along SE 182nd Avenue and continuing north as SE 182nd Avenue merges into SE 181st Avenue and then turns into NE 181st Avenue to the intersection with NE Sandy Boulevard; thence easterly along NE Sandy Boulevard to the intersection with NE 185th Drive; thence north along NE 185th Drive to the intersection with Marine Drive; thence continuing on a line due north to the Columbia River and the state line; thence following the Columbia River and the state line; thence following the Columbia River and the state line to the confluence of the Columbia and the Willamette Rivers; thence along the Willamette River to the Confluence with the Multnomah Channel and the Portland City Limits; thence following the Portland City Limits generally southerly to the intersection with Section 27, T1N, R1W and the Multnomah-Washington County Line; thence following the Multnomah-Washington County Line southwesterly and then south to the trisection of the Multnomah-Clackamas-Washington County Line, the point of beginning.

(B) All areas in northwest Multnomah County that are not contained within a known Fire Protection District.

(C) The Burlington Water District.

(b) Those areas where domestic open burning is prohibited except for the burning of yard debris between March 1 and June 15, and between October 1 and December 15, subject to OAR 340-023-0040264-0050 through OAR 340-264-0070, -0042, and -0043 and the requirements and prohibitions of local jurisdictions and the State Fire Marshall, are the areas within Multnomah County that lie west of the Sandy River and are not included in OAR 340-023-0070264-0130(a).

(c) Domestic open burning is allowed east of the Sandy River subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(d) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-023-0043264-0070.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 6-1992, f. & cert. ef. 3-11-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-023-0070.

340-023-0075264-0140

Washington County

Open burning prohibitions for Washington County:

(1) Industrial open burning is prohibited except as provided in OAR 340-023-0100264-0180.

(2) Agricultural open burning is allowed subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day;

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps shall be handled in accordance with OAR 340-023-0040264-0050(4)(c) and may be allowed, without addition of new waste material, to burn after hours into prohibition condition days.

(3) Commercial open burning is prohibited except as may be provided by OAR 340-023-0100264-0180.

(4) Construction and Demolition open burning, unless authorized pursuant to OAR 340-023-0100264-0180, is prohibited in all incorporated areas and areas within rural fire protection districts. Construction and demolition open burning is allowed in all other areas subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Domestic open burning:

(a) The area where open burning is always prohibited (unless authorized by 340-023-0100264-0180):

Beginning at the point where U.S. Interstate Highway 205 (I-205) intersects the Washington-Clackamas County Line; thence west along I-205 to the Tualatin City Limits; thence following along the Tualatin City Limits westerly, southerly, westerly and northerly to the intersection with U.S. Highway 99; thence northerly along U.S. Highway 99 to the intersection with the ~~Metropolitan Service District (METRO)~~ Metro Boundary as defined in Oregon Revised Statutes (ORS) Chapter 268.125; thence following the ~~METRO~~ Metro Boundary generally northerly and westerly to the intersection with the Tualatin Valley Highway; thence westerly along the Tualatin Valley Highway to the intersection with the western boundary of Section 11, T1S, R2W; thence north to the northwest corner of Section 2, T1S, R2W; thence east to the northwest corner of Section 2, T1S, R2W; thence north to the intersection with U.S. Highway 26; thence northwesterly along U.S. Highway 26 to the intersection with Cornelius Pass Road; thence northeasterly along Cornelius Pass Road to the intersection with the northern boundary of Section 23, T1N, R2W; thence east approximately 1/5 mile along the northern boundary of section 23, T1N, R2W to the southernmost point of the Orchard; thence north following the eastern boundary of the Orchard to the intersection with West Union Road; thence southeasterly and then easterly along West Union Road approximately 1.1 miles to a point approximately 1/4 mile west of the eastern boundary of Section 24, T1N, R2W; thence north on a line approximately 1000 feet; thence northeasterly on a line approximately 1/4 mile to the intersection of NW 185th Avenue and NW Springville Road; thence northeasterly along NW Springville Road approximately 1/4 mile to the one-quarter point of the northern boundary of Section 19, T1N, R1W; thence north approximately 400 feet; thence east to the intersection with NW 185th Avenue; thence north along 185th Avenue approximately 800 feet to the one-quarter point of the western boundary of Section 18, T1N, R1W; thence gradually northeasterly such that the Rock Creek Campus of Portland Community College is within the boundary approximately 1/2 mile to the midpoint of Section 18, T1N, R1W; thence south following the eastern boundary of the Rock Creek Campus of Portland Community College and continuing on a line due south to the intersection with NW Springville Road and the southern boundary of Section 18, T1N, R1W; thence northeasterly along NW Springville Road to the intersection with the Washington-Multnomah County Line; thence following the Washington County line southeasterly and then southerly to the point where the Washington-Clackamas County Line intersects I-205, the point of beginning.

(b) Those areas where domestic open burning is prohibited except for the burning of yard debris between March 1 and June 15, and between October 1 and December 15, subject to OAR 340-023-0040264-0050 through OAR 340-262-0070, -0042, and -0043 and the requirements and prohibitions of local jurisdictions and the State Fire Marshall:

(A) All incorporated areas in Washington County not listed in OAR 340-023-0075264-0140(a) or OAR 340-023-0075264-0140(c).

(B) All unincorporated areas within known municipal or rural fire districts.

(c) Those areas where domestic burning is allowed, subject to OAR 340-023-0040264-0050, and -0042340-264-0060 and the requirements and prohibitions of local jurisdictions and the State Fire Marshall:

(A) The area enclosed by a line beginning at the point where Highway 26 intersects the western boundary of Section 24, T2N, R4W; thence north to the northwest corner of Section 13, T2N, R4W; thence east to the midpoint of the northern boundary of Section 16, T2N, R3W; thence on a line south to the middle of Section 21, T2N, R3W; thence east to the intersection with the midpoint of the western boundary of Section 22, T2N, R3W; thence south to the southwest corner of Section 22, T2N, R3W; thence continuing south to the northern boundary of Washington County Donation Land Claim (DLC) #44; thence southeast and east following the northern boundary of Washington County DLC #44 to the eastern boundary of Washington County DLC #44; thence southwesterly along the eastern boundary of DLC #44 to the intersection with DLC Plot #76; thence continuing southwesterly along the eastern boundary of DLC #76 to the intersection with the Burlington Northern Railroad Line; thence northwesterly along the Burlington Northern Railroad Line to the intersection with the southern boundary of Section 32, T2N, R4W; thence west to the southwest corner of Section 36, T2N, R4W; thence north to the point where Highway 26 intersects the western boundary of Section 24, T2N, R4W, the point of beginning.

(B) All unincorporated areas of Washington County outside of municipal or rural fire districts.

(d) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-023-0043264-0070.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 6-1992, f. & cert. ef. 3-11-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1995, f. & cert. ef. 5-25-95; renumbered from OAR 340-023-0075.

340-023-0080264-0150

Columbia County

Open burning prohibitions for Columbia County:

(1) Industrial open burning is prohibited unless authorized pursuant to OAR 340-023-0100264-0180.

(2) Agricultural open burning is allowed subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is prohibited unless authorized pursuant to OAR 340-023-0100264-0180.

(4) Construction and demolition open burning:

(a) Unless authorized pursuant to OAR 340-023-0100264-0180, Construction and Demolition open burning is prohibited in and within three miles of the city limits of Clatskanie, Rainier, St. Helens, Scappoose, and Vernonia;

(b) Construction and Demolition open burning is allowed in all other parts of Columbia County subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Domestic open burning is allowed subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0080.

340-023-0085264-0160

Lane County

Open burning prohibitions for Lane County. That portion of Lane County east of Range 7 West, Willamette Meridian, forms a part of the Willamette Valley open burning control area as generally described in OAR 340-023-0115264-0200(5) and depicted in **Figure 2**:

(1) The rules and regulations of the Lane Regional Air Pollution authority shall apply to all open burning in Lane County provided such rules are no less stringent than the provisions of this Division except that the Lane Regional Air Pollution Authority may not regulate agricultural open burning.

(2) Industrial open burning is prohibited unless authorized pursuant to OAR 340-023-0100264-0180.

(3) Agricultural open burning is allowed subject to OAR 340-023-0040264-0050, 340-023-0042264-0060 and 340-023-0043264-0070, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day;

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps shall be handled in accordance with OAR 340-023-0040264-0050(4)(c) and may be allowed, without addition of new waste material, to burn after hours and into prohibition condition days.

(4) Commercial open burning, unless authorized pursuant to OAR 340-023-0100264-0180, is prohibited in Lane County east of Range 7 West Willamette Meridian and in or within three miles of the city limit of Florence on the coast. Commercial open burning is allowed in the remaining areas of Lane County subject to OAR 340-023-0040264-0050 and 340-023-0042264-0060 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Construction and Demolition open burning, unless authorized pursuant to OAR 340-023-0100264-0180, is prohibited within all fire districts and other areas specified in this section but is allowed elsewhere in Lane County subject to OAR 340-

~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~ and ~~340-023-0043264-0070~~, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. Areas where open burning of construction and demolition waste is prohibited include:

- (a) Bailey-Spencer RFPD;
 - (b) Coburg RFPD;
 - (c) Cottage Grove;
 - (d) Creswell RFPD;
 - (e) Crow Valley RFPD;
 - (f) Dexter RFPD except that portion east of the Willamette Meridian;
 - (g) Elmira-Noti RFPD except that portion west of the line between Range 6 West and Range 7 West;
 - (h) Eugene Fire District;
 - (i) Eugene RFPD No. 1;
 - (j) Goshen RFPD;
 - (k) Junction City Fire District;
 - (l) Junction City RFPD;
 - (m) Lane RFPD No. 1;
 - (n) Lowell RFPD;
 - (o) Marcola RFPD;
 - (p) McKenzie RFPD except that portion east of the Willamette Meridian;
 - (q) Monroe RFPD that portion within Lane County;
 - (r) Oakridge RFPD;
 - (s) Pleasant Hill RFPD;
 - (t) South Lane RFPD;
 - (u) Springfield Fire Department and those areas protected by the Springfield Fire Department;
 - (v) That portion of Western Lane Forest Protection District north of Section 11, T19S, R4W and bordering the City of Eugene and/or Crow Valley, Eugene #1, Goshen and Creswell RFPDs;
 - (w) Willakenzie RFPD;
 - (x) Zumwalt RFPD;
 - (y) Those unprotected areas which are surrounded by or are bordered on all sides by any of the above listed fire protection districts or by Eastern Lane Forest Protection District.
- (6) Domestic open burning:
- (a) Domestic open burning outside the fire districts listed in section (5) of this rule is allowed subject to OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~ and ~~340-023-0043264-0070~~, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;
 - (b) Domestic open burning is prohibited within all fire districts listed in section (5) of this rule except that open burning of yard debris is allowed subject to OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~ and ~~340-023-0043264-0070~~, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;
 - (c) Refer to Lane Regional Air Pollution Authority open burning rules for specific seasons and hours for domestic open burning.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

[ED. NOTE: The Figure(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 6-1992, f. & cert. ef. 3-11-92; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR ~~340-023-0085~~.

~~340-023-0090264-0170~~

Coos, Douglas, Jackson and Josephine Counties

Open burning prohibitions for Coos, Douglas, Jackson and Josephine Counties:

(1) Open burning control areas:

(a) The Coos Bay open burning control area as generally described in OAR ~~340-023-0115264-0200~~ and depicted in **Figure 3** is located in Coos County;

(b) The Umpqua Basin open burning control area as generally described in OAR ~~340-023-0115264-0200~~, and depicted in **Figure 5**, is located in Douglas County;

(c) The Rogue Basin open burning control area as generally described in OAR ~~340-023-0115264-0200~~ and depicted in **Figure 4**, is located in Jackson and Josephine Counties.

(2) Industrial open burning is prohibited unless authorized pursuant to OAR ~~340-023-0100264-0180~~.

(3) Agricultural open burning is allowed subject to OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~, ~~340-023-0043264-0070~~ and section (7) of this rule, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(4) Commercial open burning is prohibited within the Coos Bay, Umpqua Basin and Rogue Basin open burning control areas and in or within three miles of the corporate city limits of Coquille and Reedsport unless authorized pursuant to OAR ~~340-023-0100264-0180~~. Commercial open burning is allowed in all other areas of these counties subject to OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~ and ~~340-023-0043264-0070~~ and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Construction and Demolition open burning is prohibited within the Coos Bay, Umpqua Basin and Rogue Basin open burning control areas unless authorized pursuant to OAR ~~340-023-0100264-0180~~. Construction and Demolition open burning is allowed in other areas of these counties subject to OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~ and ~~340-023-0043264-0070~~, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(6) Domestic open burning is allowed subject to OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~, ~~340-023-0043264-0070~~ and section (7) of this rule, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(7) Upon publication by EPA of notice in the Federal Register that the Medford-Ashland Air Quality Maintenance Area or the Grants Pass Urban Growth Area has failed to attain the National Ambient Air Quality Standard for PM₁₀ by the attainment date required in the Clean Air Act, all open burning is prohibited within the Rogue Basin open burning control area during November, December, January, and February unless authorized pursuant to OAR ~~340-023-0100264-0180~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

[ED. NOTE: The Figure(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0090.

340-023-0100264-0180

Letter Permits

(1) Open Burning of commercial, industrial, construction or demolition waste on a singly occurring or infrequent basis or the open burning of yard debris which is otherwise prohibited, may be permitted by a letter permit issued by the Department in accordance with this rule and subject to OAR ~~340-023-0040264-0050~~, ~~340-023-0042264-0060~~ and ~~340-023-0043264-0070~~, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. OAR 340-014-0025; ~~340-020-0140~~, and ~~340-020-0150 through 340-020-0185~~ and division 216 shall not apply.

(2) A letter permit may only be issued on the basis of a written application for disposal of material by burning which has been approved by the Department. Each application for a letter permit shall contain the following items:

(a) The quantity and type of material proposed to be burned;

(b) A listing of all alternative disposal methods and potential costs which have been identified or investigated;

(c) The expected amount of time which will be required to complete the burning (not required for yard debris);

(d) The methods proposed to be used to insure complete and efficient combustion of the material;

(e) The location of the proposed burning site;

(f) A diagram showing the proposed burning site and the structures and facilities inhabited or used in the vicinity including distances thereto;

(g) The expected frequency of the need to dispose of similar materials by burning in the future;

(h) Any other information which the applicant considers relevant or which the Department may require;

(i) For open burning of yard debris:

(A) A "Hardship Permit Application" completed on a form supplied by the Department; and

(B) Either payment of the appropriate fee pursuant to section (11) of this rule or a "waiver request" completed on a form supplied by the Department.

(3) Upon receipt of a written application the Department may approve the application if it is satisfied that:

(a) The applicant has demonstrated that all reasonable alternatives have been explored and no practicable alternative method for disposal of the materials exists; and

(b) The proposed burning will not cause or contribute to significant degradation of air quality.

(4) The Department may deny an application for a letter permit or revoke or suspend an issued letter permit on any of the following grounds:

(a) Any material misstatement or omission in the application or a history of such misstatements or omissions by the applicant;

(b) Any actual or projected violation of any statute, rule, regulation, order, permit, ordinance, judgment or decree.

(5) In making its determination under section (3) of this rule, the Department may consider:

(a) The conditions of the airshed of the proposed burning;

(b) The other air pollution sources in the vicinity of the proposed burning;

(c) The availability of other methods of disposal, and special circumstances or conditions which may impose a hardship on an applicant;

(d) The frequency of the need to dispose of similar materials in the past and expected in the future;

(e) The applicant's prior violations, if any;

(f) The projected effect upon persons and property in the vicinity; and

(g) Any other relevant factor.

(6) Each letter permit issued by the Department pursuant to section (2) of this rule shall contain at least the following elements:

(a) The location at which the burning is permitted to take place;

(b) The number of actual calendar days on which burning is permitted to take place, not to exceed seven. Burning pursuant to a permit for yard debris shall be limited to three days per season unless satisfactory justification for more burning is provided by the applicant;

(c) The period during which the permit is valid, not to exceed a period of 30 consecutive days, except a permit for yard debris. The actual period in the permit shall be specific to the needs of the applicant;

(d) A letter permit for yard debris shall be valid for a single burning season or for both the spring and fall burning seasons during a calendar year, as appropriate to the application and the fee paid pursuant to the schedule in section (11) of this rule. The spring burning is from March 1 to June 15, inclusive, and the fall burning season is from October 1 to December 15, inclusive;

(e) Equipment and methods required to be used by the applicant to insure that the burning is accomplished in the most efficient manner over the shortest period of time to minimize smoke production;

(f) The limitations, if any, based on meteorological conditions required before burning may occur. Open burning under permits for yard debris shall be limited to the hours and times which limit seasonal domestic yard debris burning permitted in the county where the burning under the letter permit is to occur;

(g) Reporting requirements for both starting the fire each day and completion of the requested burning, (optional for permits for yard debris);

(h) A statement that OAR ~~340-023-0040264-0050~~ and ~~340-023-0042264-0060~~ are fully applicable to all burning under the permit;

(i) Such other conditions as the Department considers to be desirable.

(7) Regardless of the conditions contained in any letter permit, each letter permit, except permits for yard debris, shall be valid for not more than 30 consecutive calendar days of which a maximum of seven can be used for burning. The Department may issue specific letter permits for shorter periods.

(8) Letter permits shall not be renewable. Any requests to conduct additional burning shall require a new application and a new permit.

(9) For locations within Clackamas, Columbia, Multnomah and Washington Counties, letter permits may be issued only for the purpose of disposal of:

(a) Material resulting from emergency occurrences including, but not limited to floods, storms or oil spills;

(b) Material originating as yard debris which has been collected and stored by governmental jurisdictions provided that no other reasonable means of disposal are available;

(c) Yard debris excluding grass clippings and leaf piles, on the property of a private residence where the inability to burn creates a significant hardship due to:

- (A) An economic burden when the estimated cost of alternative means of yard debris disposal presents a financial hardship in relation to household income and expenses of the applicant;
- (B) A physical handicap, personal disability, chronic illness, substantial infirmity or other physical limitation substantially inhibiting the ability of the applicant to process or transport yard debris; or
- (C) Inaccessibility of yard debris, where steepness of terrain or remoteness of the debris site makes access by processing or transportation equipment unreasonable.

(10) No person shall violate any condition, limitation, or term of a letter permit.

(11) All applications for a letter permit for yard debris shall be accompanied by a permit fee which shall be payable to the Department and become non-refundable upon issuance of the permit. The fee to be submitted is:

(a) For a single burning season, spring or fall — \$20;

(b) For a calendar year — \$30.

(12) The Department may waive the single season permit fee if the applicant shows that the cost of the hardship permit presents an extreme financial hardship in relation to the household income and expenses of the applicant.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0100.

340-023-0105264-0190

Forced Air Pit Incinerators

Forced air pit incineration may be approved as an alternative to open burning prohibited by this Division, provided that the following conditions shall be met:

(1) The person requesting approval of forced air pit incineration shall demonstrate to the satisfaction of the Department that no feasible or practicable alternative to forced-air pit incineration exists.

(2) The forced-air pit incineration facility shall be designed, installed, and operated in such a manner that visible emissions do not exceed 40 percent opacity, as measured by EPA Method 9, for more than three minutes out of any one hour of operation following the initial 30 minute startup period.

(3) The person requesting approval of a forced-air pit incineration facility shall be granted an approval of the facility only after a Notice of Construction and Application for Approval is submitted pursuant to OAR 340-020-0020210-0200 through 340-020-0030210-0220.

(4) A forced-air pit permit for operation of a forced air pit incineration facility shall be required and shall be based on the same conditions and requirements stipulated for letter permits in OAR 340-023-0100264-0180, which is included here by reference, except that the term of the permit shall not be limited to 30 days and the operation of the facility shall not be limited to seven days, but both the term of the permit and the operation limit of the facility shall be specified in the permit and shall be appropriate to the purpose of the facility.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.575

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0105.

340-023-0115264-0200

Open Burning Control Areas

Generally areas around the more densely populated locations in the state and valleys or basins which restrict atmospheric ventilation are designated open burning control areas. The practice of open burning may be more restrictive in open burning control areas than in other areas of the state. The specific open burning restrictions associated with these Open Burning Control Areas are listed in OAR 340-023-0055264-0100 through 340-023-0090264-0170 by county. The general locations of Open Burning Control Areas are depicted in **Figures 2** through **5**. The Open Burning Control Areas of the state are defined as follows:

(1) All areas in or within three miles of the incorporated city limit of all cities with a population of 4,000 or more.

(2) The Coos Bay Open Burning Control Area is located in Coos County with boundaries as generally depicted in **Figure 3** of this rule. The area is enclosed by a line beginning at a point approximately 4-1/2 miles WNW of the City of North Bend, at the intersection of the north boundary of T25S, R13W, and the coastline of the Pacific Ocean; thence east to the NE corner of T25S, R12W; thence south to the SE corner of T26S, R12W; thence west to the intersection of the south boundary of T26S, R14W and the coastline of the Pacific Ocean, thence northerly and easterly along the coastline of the Pacific Ocean to its intersection with the north boundary of T25S, R13W, the point of beginning.

(3) The Rogue Basin Open Burning Control Area is located in Jackson and Josephine Counties with boundaries as generally depicted in **Figure 4**. The area is enclosed by a line beginning at a point approximately 4-1/2 miles NE of the City of Shady Cove at the NE corner of T34S, R1W, Willamette Meridian, thence south along the Willamette Meridian to the SW corner of T37S, R1W; thence east to the NE corner of T38S, R1E; thence south to the SE corner of T38S, R1E; thence east to the NE corner of T39S, R2E; thence south to the SE corner of T39S, R2E; thence west to the SW corner of T39S, R1E; thence NW along a line to the NW corner of T39S, R1W; thence west to the SW corner of T38S, R2W; thence north to the SW corner of T36S, R2W; thence west to the SW corner of T36S, R4W; thence south to the SE corner of T37S, R5W; thence west to the SW corner of T37S, R6W; thence north to the NW corner of T36S, R6W; thence east to the SW corner of T35S, R1W; thence north to the NW corner of T34S, R1W; thence east to the point of beginning.

(4) The Umpqua Basin Open Burning Control Area is located in Douglas County with boundaries as generally depicted in **Figure 5**. The area is enclosed by a line beginning at a point approximately four miles ENE of the City of Oakland, Douglas County, at the NE corner of T25S, R5W, Willamette Meridian, thence south to the SE corner of T25S, R5W; thence east to the NE corner of T26S, R4W; thence south to the SE corner of T27S, R4W; thence west to the SE corner of T27S, R5W; thence south to the SE corner of T30S, R5W; thence west to the SW corner of T30S, R6W; thence north to the NW corner of T29S, R6W; thence west to the SW corner of T28S, R7W thence north to the NW corner of T27S, R7W; thence east to the NE corner of T27S, R7W; thence north to the NW corner of T26, R6W; thence east to the NE corner of T26S, R6W; thence north to the NW corner of T25S, R5W; thence east to the point of beginning.

(5) The boundaries of the Willamette Valley Open Burning Control Area are generally depicted in **Figures 1 and 2**. The area includes all of Benton, Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and that portion of Lane County east of Range 7 West.

(6) Special control areas are established around cities within the Willamette Valley Open Burning Control Area. The boundaries of these special control areas are determined as follows:

- (a) Any area in or within three miles of the boundary of any city of more than 1,000 but less than 45,000 population;
- (b) Any area in or within six miles of the boundary of any city of 45,000 or more population;
- (c) Any area between areas established by this rule where the boundaries are separated by three miles or less;
- (d) Whenever two or more cities have a common boundary, the total population of these cities will determine the applicability of subsection (a) or (b) of this section and the municipal boundaries of each of the cities shall be used to determine the limit of the special control area.

(7) A domestic burning ban area around the Portland metropolitan area is generally depicted in **Figure 1A**. This area encompasses parts of the special control area in Clackamas, Multnomah and Washington Counties. Specific boundaries are listed in OAR ~~340-023-0065264-0120(5)~~, ~~340-023-0070264-0130(5)~~ and ~~340-023-0075264-0140(5)~~. Domestic burning is prohibited in this area except as allowed pursuant to OAR ~~340-023-0100264-0180~~.



[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

[ED. NOTE: The Figure(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

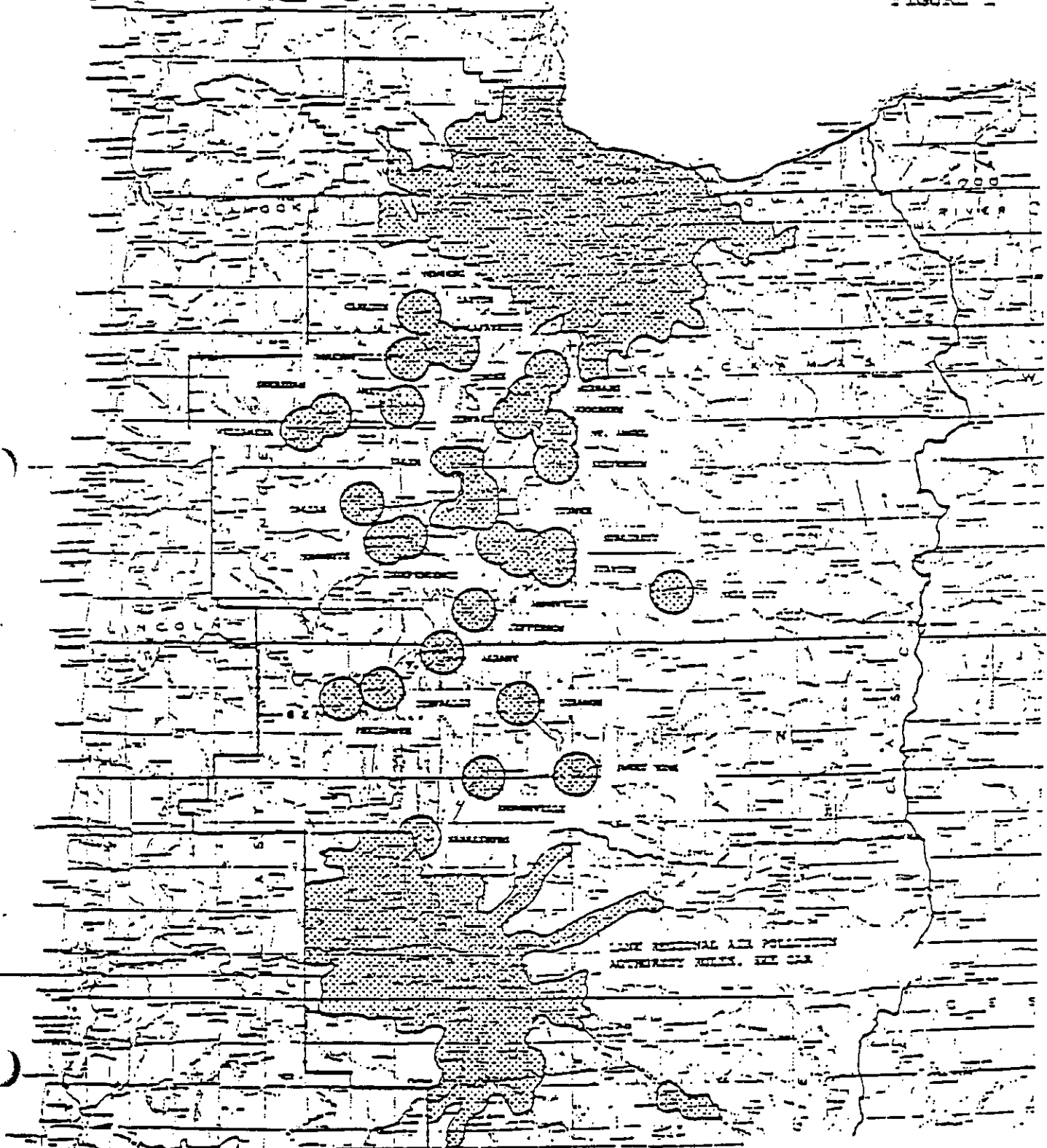
Stats. Implemented: ORS 468A.555

Hist.: DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-023-0115.

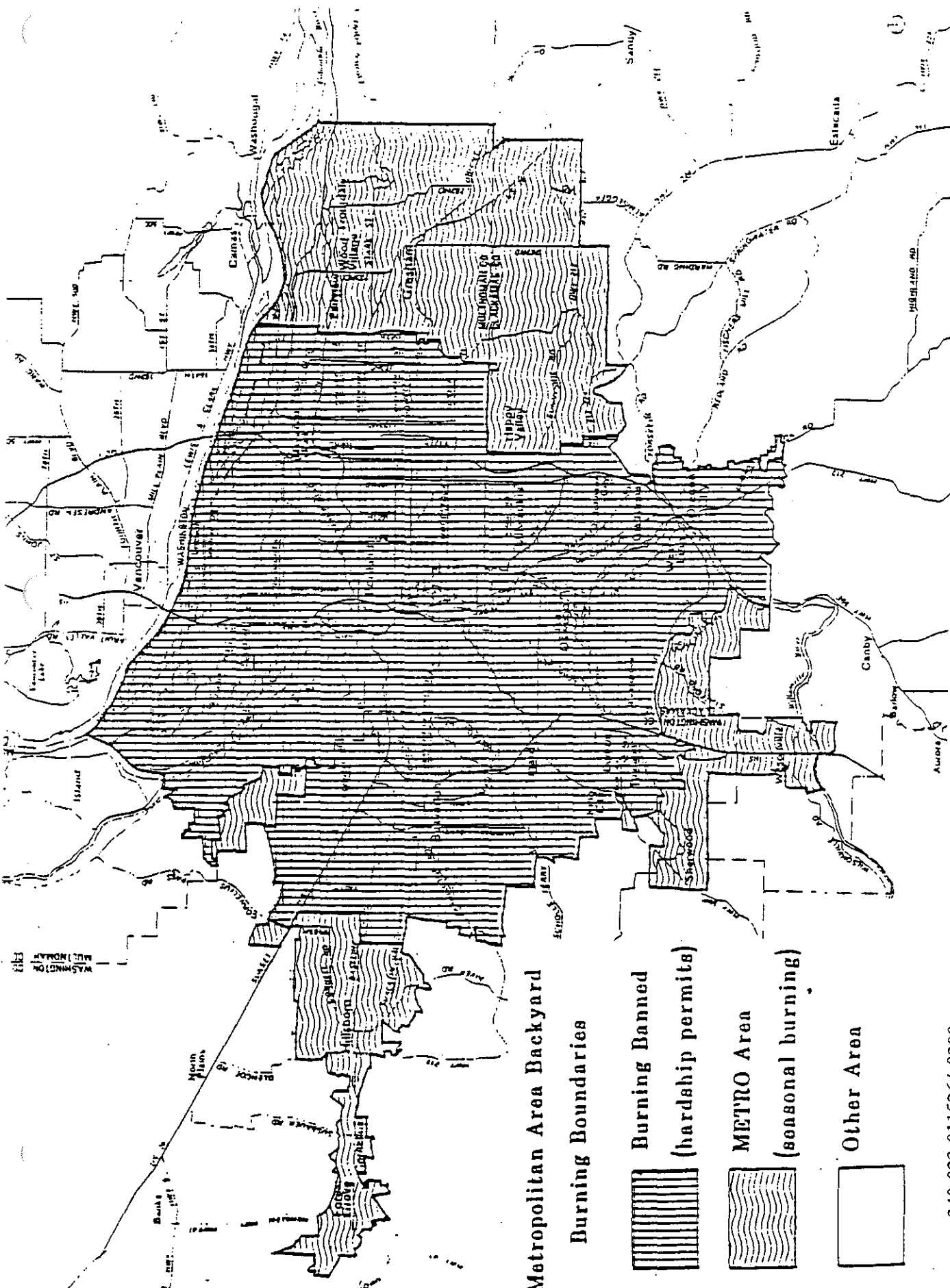
-  SPECIAL CONTROL AREA
DOMESTIC OPEN BURNING RESTRICTED TO
YARD WRECKS DURING SEASON, APPROXIMATE AREA
-  DOMESTIC OPEN BURNING PERMITTED
12 MONTHS ON PERMITTED DAYS

340-023-0115264-0200

FIGURE 1






WILLAMETTE VALLEY OPEN BURNING CONTROL AREA



Metropolitan Area Backyard

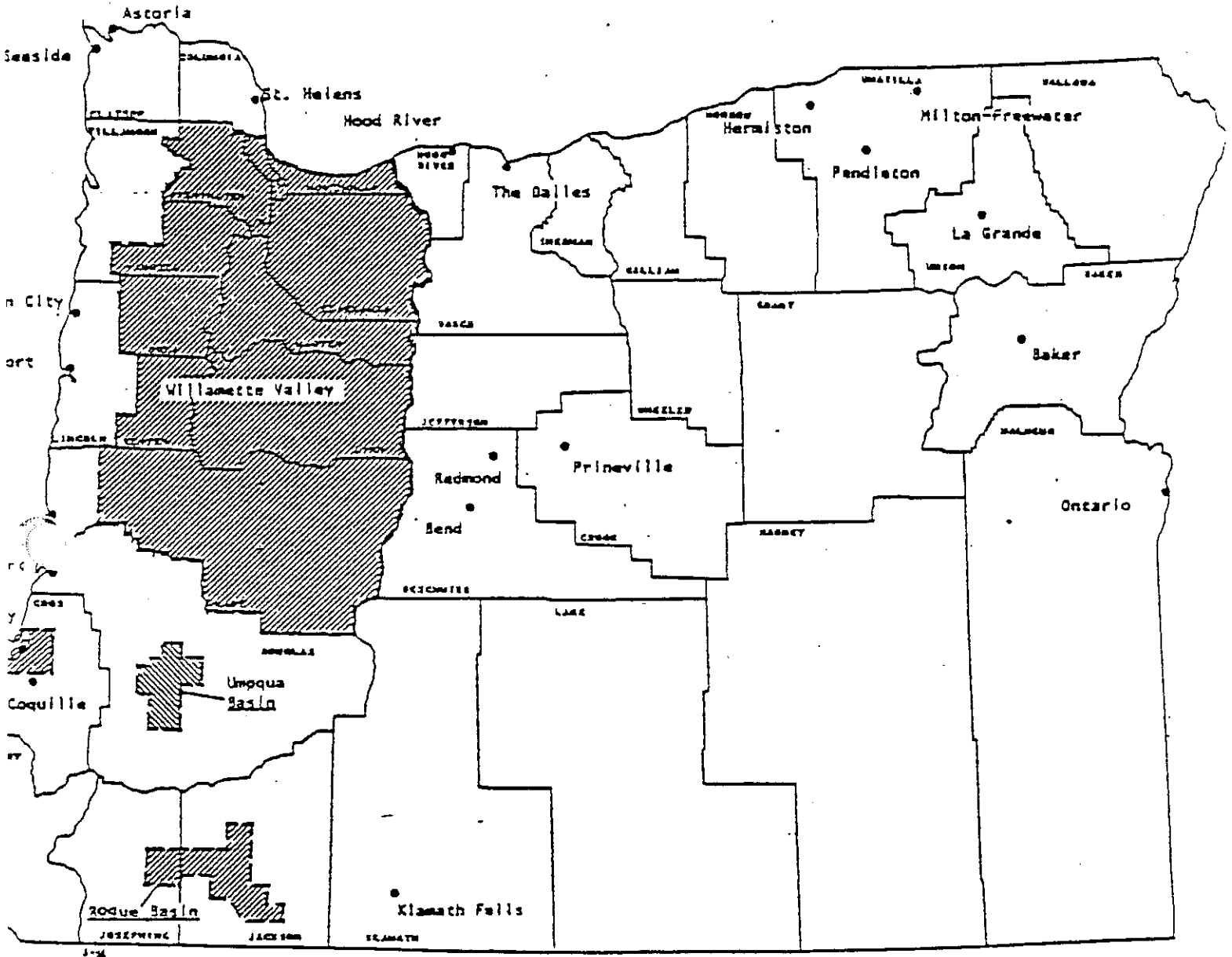
Burning Boundaries

-  **Burning Banned**
(hardship permits)
-  **METRO Area**
(seasonal burning)
-  **Other Area**

340-023-0115264-0200

FIGURE 1A

OPEN BURNING CONTROL AREAS



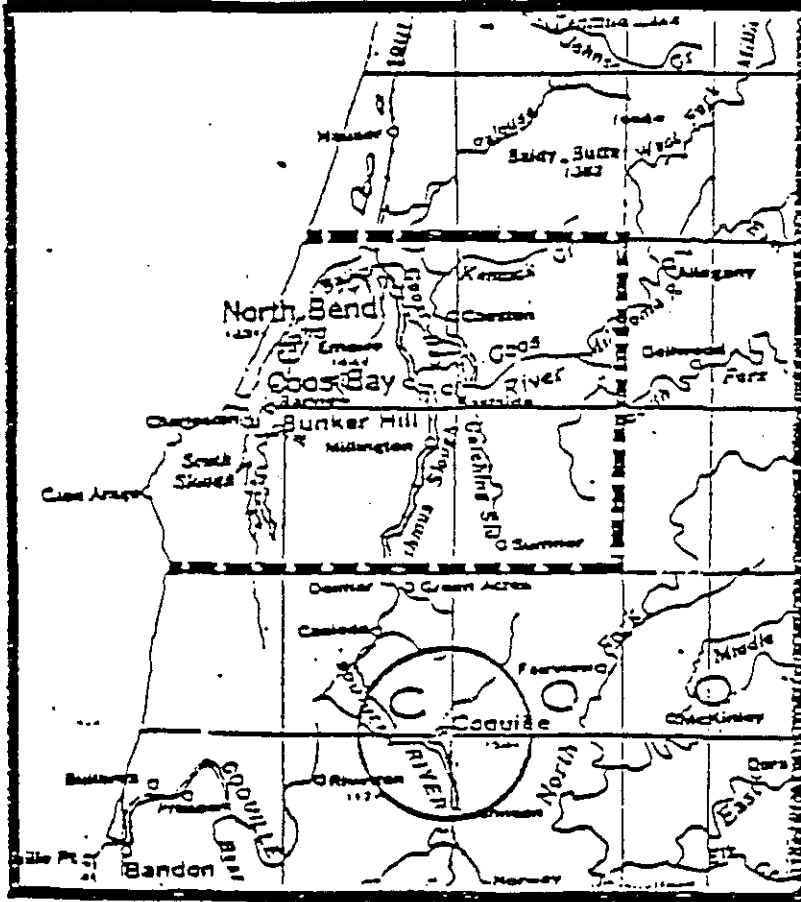
▨ OPEN BURNING CONTROL AREAS

• CITIES EXCEEDING POPULATION OF 4,000

340-023-0115264-0200

FIGURE 2

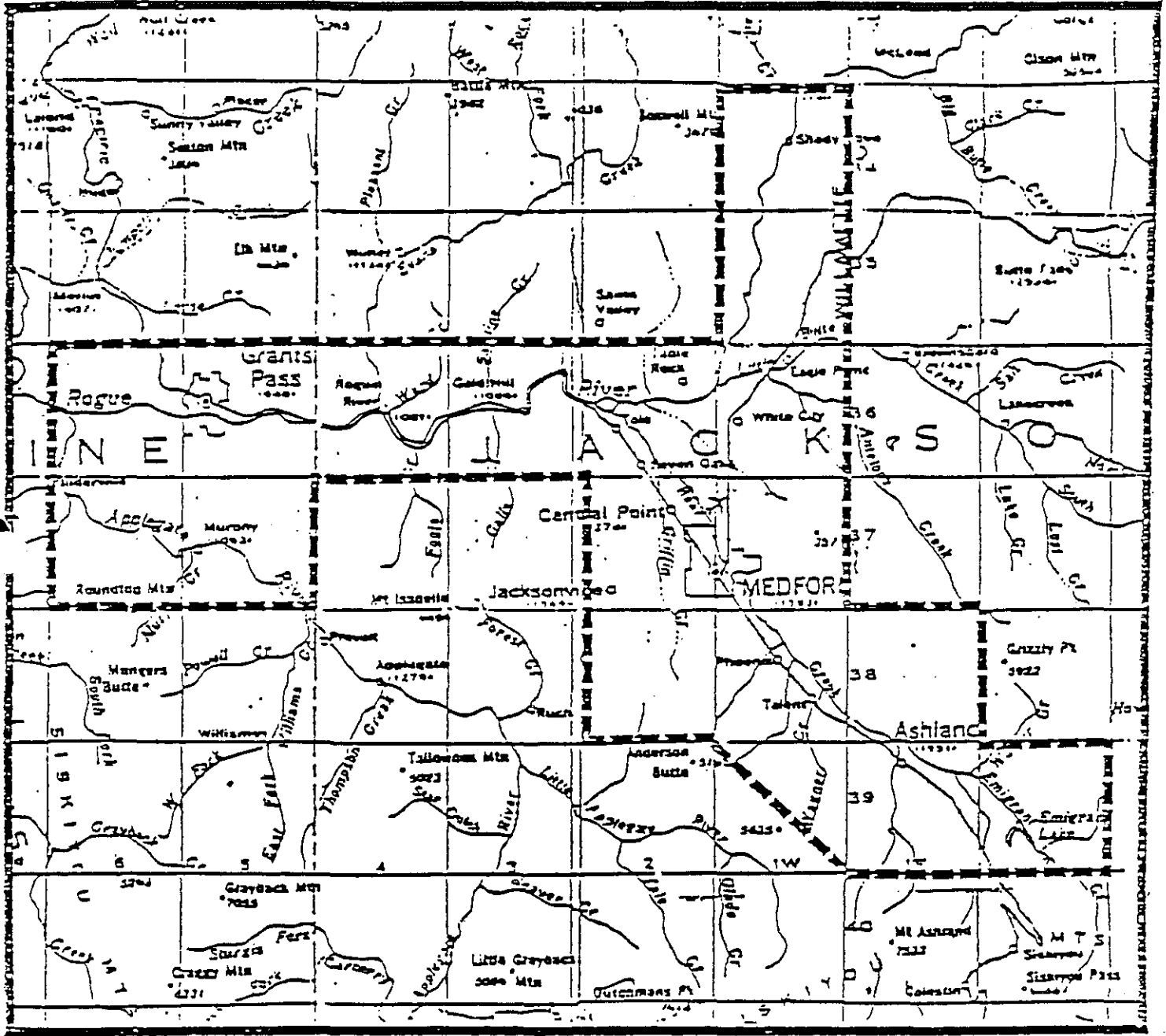
COOS BAY OPEN BURNING CONTROL AREA
(Coquille Control Area Shown As Circle)



340-023-0115264-0200

FIGURE 3

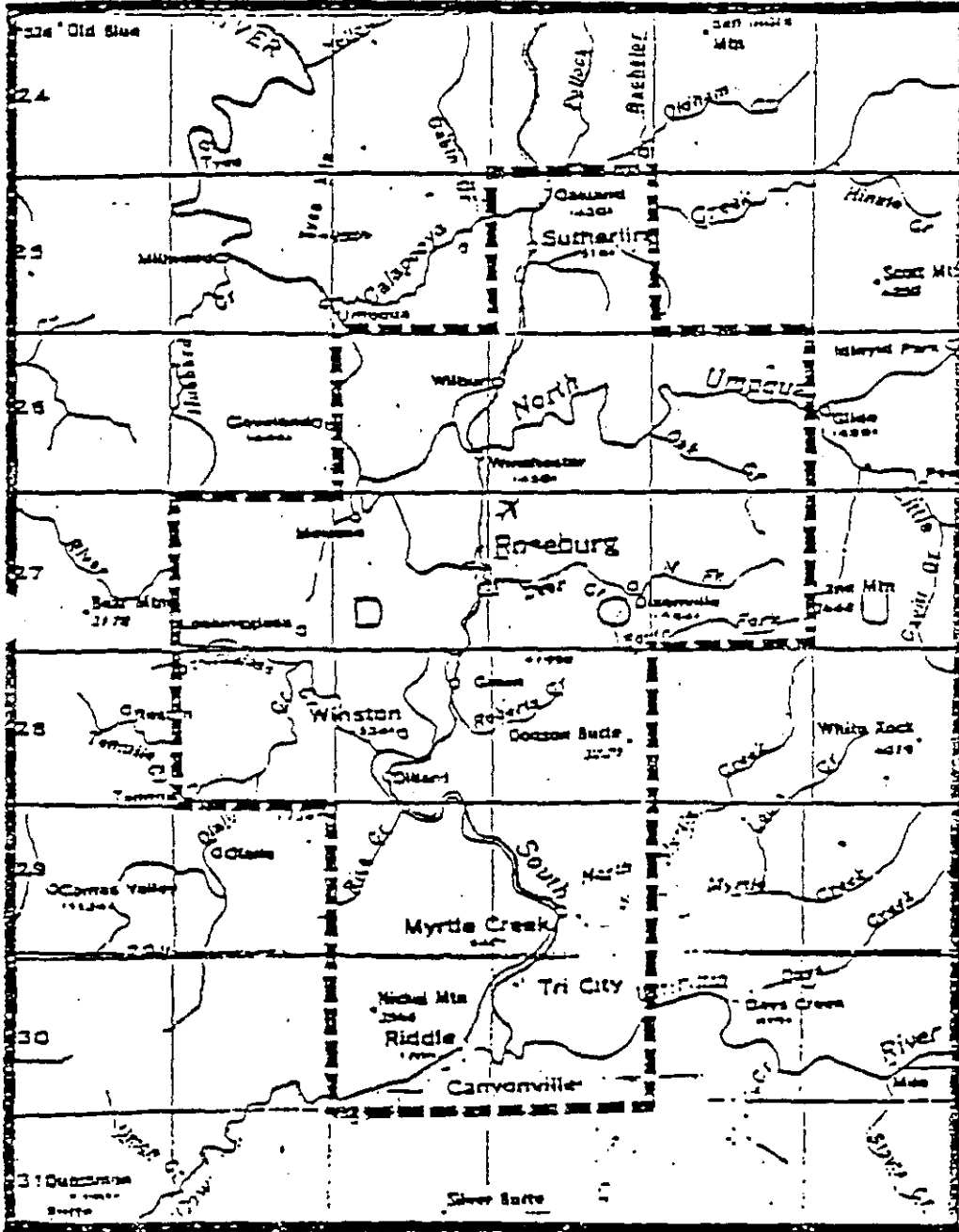
ROGUE BASIN OPEN BURNING CONTROL AREA



340-023-0115264-0200

FIGURE 4

UMPQUA BASIN OPEN BURNING CONTROL AREA



340-023-0145264-0200

FIGURE 5

DIVISION 266

FIELD BURNING RULES (Willamette Valley)

340-026-0001266-0010

Introduction

(1) This Division applies to the open field burning, propane flaming, and stack and pile burning of all perennial and annual grass seed and cereal grain crops, and associated residue within the Willamette Valley. The open burning of all other agricultural waste material, including sanitizing perennial and annual grass seed crops by open burning in counties outside the Willamette Valley, (referred to as "fourth priority agricultural burning") is governed by OAR Chapter 340, Division-~~23264~~, Rules for Open Burning. Enforcement procedure and civil penalties for open field burning, propane flaming, and stack and pile burning are established in OAR Chapter 340, Division 12.

(2) Organization of rules:

(a) OAR ~~340-026-0003266-0020~~ is the policy statement of the Environmental Quality Commission setting forth the goals of this Division;

(b) OAR ~~340-026-0005266-0030~~ contains definitions of terms which have specialized meanings within the context of this Division;

(c) OAR ~~340-026-0010266-0040~~ lists general provisions and requirements pertaining to all open field burning, propane flaming, and stack and pile burning with particular emphasis on the duties and responsibilities of the grower registrant;

(d) OAR ~~340-026-0012266-0050~~ lists procedures and requirements for registration of acreage, issuance of permits, collection of fees, and keeping of records, with particular emphasis on the duties and responsibilities of the local permit issuing agencies;

(e) OAR ~~340-026-0013266-0060~~ establishes acreage limits and methods of determining acreage allocations;

(f) OAR ~~340-026-0015266-0070~~ establishes criteria for authorization of open field burning, propane flaming, and stack and pile burning pursuant to the administration of a daily smoke management control program;

(g) OAR ~~340-026-0031266-0080~~ establishes special provisions pertaining to field burning by public agencies for official purposes, such as "training fires";

(h) OAR ~~340-026-0033266-0090~~ establishes special provisions pertaining to "preparatory burning";

(i) OAR ~~340-026-0035266-0100~~ establishes special provisions pertaining to open field burning for experimental purposes;

(j) OAR ~~340-026-0040166-0110~~ establishes special provisions and procedures pertaining to emergency cessation of burning;

(k) OAR ~~340-026-0045266-0120~~ establishes provisions pertaining to propane flaming;

(l) OAR ~~340-026-0055266-0130~~ establishes provisions pertaining to "stack and piling burning".

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 12-1984, f. & ef. 7-13-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; renumbered from OAR 340-026-0001.

340-026-0003266-0020

Policy

In the interest of public health and welfare, it is the declared public policy of the State of Oregon to reduce the practice of open field burning while developing and providing alternative methods of field sanitation and alternative methods of utilizing and marketing grass seed and cereal grain straw residues and to control, reduce, and prevent air pollution from open field burning, propane flaming, and stack and pile burning by smoke management. In developing and carrying out a smoke management control program it is the policy of the Environmental Quality Commission:

(1) To provide for a maximum level of burning with a minimum level of smoke impact on the public, recognizing:

(a) The importance of flexibility and judgment in the daily decision-making process, within established and necessary limits;

(b) The need for operational efficiency within and between each organizational level;

(c) The need for effective compliance with all regulations and restrictions.

(2) To study, develop and encourage the use of reasonable and economically feasible alternatives to the practice of open field burning.

(3) To increase the degree of public safety by preventing unwanted wild fires and smoke from open field burning, propane flaming, and stack burning near highways and freeways within the State of Oregon. The Environmental Quality Commission hereby adopts by reference, as rules of the Environmental Quality Commission, OAR 837-110-0110 through 837-110-0160, the rules of the State Fire Marshal filed with the Secretary of State on February 7, 1994. These rules shall apply to that area west of the Cascade Range and south to the Douglas/Lane County lines.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1994, f. & cert. ef. 5-31-94; renumbered from OAR 340-026-0003.

340-026-0005266-0030

Definitions

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

- (1) "Actively Extinguish" means the direct application of water or other fire retardant to an open field fire.
- (2) "Approved Alternative Method(s)" means any method approved by the Department to be a satisfactory alternative field sanitation method to open field burning.
- (3) "Approved Alternative Facilities" means any land, structure, building, installation, excavation, machinery, equipment, or device approved by the Department for use in conjunction with an approved alternative method.
- (4) "Candidate Fields" means all grass seed or cereal grain fields being considered for open field burning or propane flaming.
- (5) "Commission" means the Environmental Quality Commission.
- (6) "Cumulative Hours of Smoke Intrusion in the Eugene-Springfield Area" means the average of the totals of cumulative hours of smoke intrusion recorded for the Eugene site and the Springfield site. Provided the Department determines that field burning was a significant contributor to the smoke intrusion:
 - (a) The Department shall record one hour of intrusion for each hour the nephelometer hourly reading exceeds a background level by 1.8×10^4 b-scat units or more but less than the applicable value in subsection (b) or (c) of this section;
 - (b) Between June 16 and September 14 of each year, two hours of smoke intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by 5.0×10^4 b-scat units;
 - (c) Between September 15 and June 15 of each year, two hours of intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by 4.0×10^4 b-scat units;
 - (d) The background level shall be the average of the three hourly readings immediately prior to the intrusion.
- (7) "Department" means the Department of Environmental Quality. The Department may enter into contracts with the Oregon Department of Agriculture or other agencies to carry out the purposes set forth in these rules.
- (8) "Director" means the Director of the Department or delegated employee representative pursuant to ORS 468.045(3).
- (9) "District Allocation" means the total amount of acreage sub-allocated annually to the fire district, based on the district's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued within the district, subject to daily authorization. District allocation is defined by the following identity:

District Allocation =

Maximum annual acreage limit

Total acreage registered in the Valley

X

Total acreage registered in the District

(10) "Drying Day" means a 24-hour period during which the relative humidity reached a minimum less than 50 percent and no rainfall was recorded at the nearest reliable measuring site.

(11) "Effective Mixing Height" means either the actual height of plume rise as determined by aircraft measurement or the calculated or estimated mixing height as determined by the Department, whichever is greater.

(12) "Field-by-Field Burning" means burning on a limited or restricted basis in which the amount, rate, and area authorized for burning is closely controlled and monitored. Included under this definition are "training fires" and experimental open field burning.

(13) "Field Reference Code" means a unique four-part code which identifies a particular registered field for mapping purposes. The first part of the code shall indicate the grower registration (form) number, the second part the line number of the field as listed on the registration form, the third part the crop type, and the fourth part the size (acreage) of the field (e.g., a 35 acre perennial (bluegrass) field registered on Line 2 of registration form number 1953 would be 1953-2-P-BL-35).

(14) "Fire District" or "District" means a fire permit issuing agency.

(15) "Fire Permit" means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, 477.530, 476.380, or 478.960.

(16) "Fires-Out Time" means the time announced by the Department when all flames and major smoke sources associated with open field burning should be out and prohibition conditions are scheduled to be imposed.

(17) "Fire Safety Buffer Zone" shall have the same meaning as defined in the State Fire Marshal rules.

(18) "Fluffing" means an approved mechanical method of stirring or tedding crop residues for enhanced aeration and drying of the full fuel load, thereby improving the field's combustion characteristics.

(19) "Grower Allocation" means the amount of acreage sub-allocated annually to the grower registrant, based on the grower registrant's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued, subject to daily authorization. Grower allocation is defined by the following identity:

Grower Allocation =

Maximum annual acreage limit

Total acreage registered in the Valley

Total acreage registered by the grower registrant

(20) "Grower Registrant" means any person who registers acreage with the Department for purposes of open field burning, propane flaming, or receives a permit to stack or pile burn.

(21) "Marginal Conditions" means atmospheric conditions such that smoke and particulate matter escape into the upper atmosphere with some difficulty but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety.

(22) "Marginal Day" means a day on which marginal conditions exist.

(23) "Nephelometer" means an instrument for measuring ambient smoke concentrations.

(24) "Northerly Winds" means winds coming from directions from 290° to 90° in the north part of the compass, averaged through the effective mixing height.

(25) "Open Field Burning" means burning of any perennial or annual grass seed or cereal grain crop, or associated residue, in such manner that combustion air and combustion products are not effectively controlled.

(26) "Open Burning" means the burning of agricultural, construction, demolition, domestic, or commercial waste or any other burning which occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney pursuant to OAR 340-023-0030264-0030.

(27) "Open Field Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575.

(28) "Permit Issuing Agency" or "Permit Agent" means the county court or board of county commissioners, or fire chief or a rural fire protection district or other person authorized to issue fire permits pursuant to ORS 477.515, 477.530, 476.380, or 478.960.

(29) "Preparatory Burning" means controlled burning of portions of selected problem fields for the specific purpose of reducing the fire hazard potential or other conditions which would otherwise inhibit rapid ignition burning when the field is subsequently open burned.

(30) "Priority Acreage" means acreage located within a priority area.

(31) "Priority Areas" means the following areas of the Willamette Valley:

(a) Areas in or within three miles of the city limits of incorporated cities having populations of 10,000 or greater;

(b) Areas within one mile of airports servicing regularly scheduled airline flights;

(c) Areas in Lane County south of the line formed by U.S. Highway 126 and Oregon Highway 126;

(d) Areas in or within three miles of the city limits of the City of Lebanon;

(e) Areas on the west and east side of and within 1/4 mile of these highways: 99, 99E, and 99W. Areas on the south and north side of and within 1/4 mile of U.S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

(32) "Prohibition Conditions" means conditions under which open field burning is not allowed except for individual burns specifically authorized by the Department pursuant to OAR 340-~~026-0015~~266-0070(2).

(33) "Propane Flaming" means a mobile flamer device which meets the following design specifications and utilizes an auxiliary fuel such that combustion is nearly complete and emissions are significantly reduced:

(a) Flamer nozzles shall not be more than 15 inches apart;

(b) A heat deflecting hood is required and shall extend a minimum of three feet beyond the last row of nozzles.

(34) "Propane Flaming Permit" means a permit issued by the Department pursuant to ORS 468A.575 and consisting of a validation number and specifying the conditions and acreage specifically registered and allocated for propane flaming.

(35) "Quota" means an amount of acreage established by the Department for each fire district for use in authorizing daily burning limits in a manner to provide, as reasonably as practicable, an equitable opportunity for burning in each area.

(36) "Rapid Ignition Techniques" means a method of burning in which all sides of the field are ignited as rapidly as practicable in order to maximize plume rise. Little or no preparatory backfire burning shall be done.

(37) "Released Allocation" means that part of a growers allocation, by registration form, that is unused and voluntarily released to the Department for first come-first serve dispersal to other grower registrants.

(38) "Residue" means straw, stubble and associated crop material generated in the production of grass seed and cereal grain crops.

(39) "Responsible Person" means each person who is in ownership, control, or custody of the real property on which open burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, or the grower registrant. Each person who causes or allows open field burning, propane flaming, or stack or pile burning to be maintained shall also be considered a responsible person.

(40) "Small-Seeded Seed Crops Requiring Flame Sanitation" means small-seeded grass, legume, and vegetable crops, or other types approved by the Department, which are planted in early autumn, are grown specifically for seed production, and which require flame sanitation for proper cultivation. For purposes of this Division, clover and sugar beets are specifically included. Cereal grains, hairy vetch, or field peas are specifically not included.

(41) "Smoke Management" means a system for the daily or hourly control of open field burning, propane flaming, or stack or pile burning through authorization of the times, locations, amounts and other restrictions on burning, so as to provide for suitable atmospheric dispersion of smoke particulate and to minimize impact on the public.

(42) "Southerly Winds" means winds coming from directions from 90° to 290° in the south part of the compass, averaged through the effective mixing height.

(43) "Stack Burning" means the open burning of bound, baled, collected, gathered, accumulated, piled or stacked straw residue from perennial or annual grass seed or cereal grain crops.

(44) "Stack Burning Permit" means a permit issued by the Department pursuant to ORS468A.575 that identifies the responsible person, date of permit issuance, and specifies the acreage and location authorized for stack or pile burning.

(45) "Test Fires" means individual field burns specifically authorized by the Department for the purpose of determining or monitoring atmospheric dispersion conditions.

(46) "Training Fires" means individual field burns set by or for a public agency for the official purpose of training personnel in fire-fighting techniques.

(47) "Unusually High Evaporative Weather Conditions" means a combination of meteorological conditions following periods of rain which result in sufficiently high rates of evaporation, as determined by the Department, where fuel (residue) moisture content would be expected to approach about 12 percent or less.

(48) "Validation Number" means:

(a) For open field burning a unique five-part number issued by the Department or its delegate identifying a specific field and acreage allowed to be open field burned and the date and time the permit was issued (e.g., a validation number issued August 26 at 2:30 p.m. for a 70-acre burn for a field registered on Line 2 of registration form number 1953 would be 1953-2-0826-1430-070);

(b) For propane flaming and stack or pile burning a unique five part alphanumeric, issued by the Department or its Delegate, identifying a specific field and acreage allowed to be propane flamed or stack or pile burned, the date and time the permit was issued, and the burn type (e.g., a validation number issued on July 15 for a 100 acre field to be propane flamed registered on Line 4 of registration form 9999 would be 9999-4-0715-P-100.

(49) "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in this Division is defined by the following identity:

$$VI = \frac{\text{Effective mixing height (feet)}}{1,000}$$

x (Average wind speed through the effective mixing height (knots))

(50) "Willamette Valley" means the areas of Benton, Clackamas, Lane, Linn, Marion, Mult-nomah, Polk, Washington, and Yamhill Counties lying between the crest of the Coast Range and the crest of the Cascade Mountains, and includes the following:

(a) "South Valley", the areas of jurisdiction of all fire permit issuing agents or agencies in the Willamette Valley portions of the counties of Benton, Lane, or Linn;

(b) "North Valley", the areas of jurisdiction of all other fire permit issuing agents or agencies in the Willamette Valley.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-026-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 29, f. 6-12-71, ef. 7-12-71; DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. & ef. 6-4-76; DEQ 138, f. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 24-1979(Temp), f. & ef. 7-5-79; DEQ 28-1979, f. & ef. 9-13-79; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; renumbered from OAR 340-026-0005.

340-026-0010-266-0040

General Requirements

(1) No person shall cause or allow open field burning or propane flaming on any acreage unless said acreage has first been registered and mapped pursuant to OAR 340-026-0012266-0050(1), the registration fee has been paid, and the registration (permit application) has been approved by the Department.

(2) No person shall cause or allow open field burning, propane flaming, or stack or pile burning without first obtaining and being able to readily demonstrate a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 340-026-0012266-0050(2). One the specific day of and prior to open the field burning, propane flaming, or pile or stack burning of any grass seed or cereal grain crop or associated residue the grower registrant shall obtain, in person or by telephone, a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 340-026-0012266-0050.

(3) The Department may prohibit any person from registering acreage for open field burning or propane flaming and may deny burn permits for open field burning, propane flaming, and stack and pile burning until all delinquent registration fees, late fees, and burn permit fees from previous seasons are paid. The Department may also institute appropriate legal action to collect the delinquent fees.

(4) No person shall open field burn cereal grain acreage unless that person first issues to the Department a signed statement, and then acts to insure, that said acreage will be planted in the following growing season to a small-seeded seed crop requiring flame sanitation for proper cultivation, as defined in OAR 340-026-0005266-0030(40).

(5) No person shall cause or allow open field burning, propane flaming, or stack or pile burning which is contrary to the Department's announced burning schedule specifying the times, locations and amounts of burning permitted, or to any other provision announced or set forth by the Department or this Division.

(6) Each responsible person open field burning or propane flaming shall have an operating radio receiver and shall directly monitor the Department's burn schedule announcements at all times while open field burning or propane flaming.

(7) Each responsible person open field burning or propane flaming shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employee of the Department.

(8) No person shall cause or allow open field burning or stack or pile burning within 1/4 mile of either side of any Interstate freeway within the Willamette Valley or within 1/8 mile of either side of the designated roadways listed in OAR 837-110-0080(2)(c). In addition, no person shall cause or allow open field burning in any of the remaining area within a fire safety buffer zone unless a noncombustible ground surface has been provided between the field to be burned and the nearest edge of the roadway right-of-way as required by OAR 837-110-0080.

(9) Each responsible person open field burning, propane flaming, or stack or pile burning within a priority area or fire safety buffer zone around a designated city, airport or highway shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the designated city, airport or highway.

(10) Each responsible person open field burning shall make every reasonable effort to expedite and promote efficient burning and prevent excessive emissions of smoke by:

(a) Meeting all of the State Fire Marshal requirements specified in OAR 837-110-0040 through 837-110-0080;

(b) Ensuring field residues are evenly distributed, dry, and in good burning condition;

(c) Employing rapid ignition techniques on all acreage where there are no imminent fire hazards or public safety concerns.

(11) Open field burning, propane flaming, or stack or pile burning in compliance with this Division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order or decree of the Commission or any other government entity having jurisdiction.

(12) Any revisions to the maximum acreage to be burned, allocation or permit issuing procedures, or any other substantive changes to this Division affecting open field burning, propane flaming, or stack or pile burning for any year shall be made prior to June 1 of that year. In making such changes, the Commission shall consult with Oregon State University.

(13) Open field burning shall be regulated in a manner consistent with the requirements of the Oregon Visibility Protection Plan for Class I Areas (Section 5.2 of the State of Oregon Clean Air Act Implementation Plan adopted under OAR ~~340-020-0047~~200-0040).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 29, f. 6-12-71, ef. 7-12-71; DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. 6-4-76; DEQ 138, f. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-88; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; renumbered from OAR 340-026-0010.

340-026-0012-266-0050

Registration, Permits, Fees, Records

In administering a field burning smoke management program, the Department may contract with counties or fire districts or other responsible individual to administer registration of acreage, issuance of permits, collection of fees, and keeping of records for open field burning, propane flaming, or stack or pile burning within their permit jurisdictions. The Department shall pay said authority for these services in accordance with the payment schedule provided for in ORS 468A.615. Three-quarters of said payment shall be made prior to July 1 of each year and the remainder shall be paid within ten days after completion of the end of season reconciliation:

(1) Registration of acreage:

(a) On or before April 1 of each year, each grower intending to open burn or propane flame under this Division shall register the total acreage to be open burned or propane flamed. Said acreage shall be registered with the Department or its authorized permit agent on the registration forms provided. Candidate fields for open burning or propane flaming shall be listed on the registration form and shall also be delineated on specially provided registration map materials and identified using a unique field reference code. Registration, listing of fields, and mapping shall be completed according to the

established procedures of the Department. At the time of registration, a non-refundable registration fee of \$2 shall be paid for each acre registered for open field burning and \$1 shall be paid for each acre registered for propane flaming. The registration fees for open field burning and propane flaming shall be paid into separate designated accounts. A complete registration (permit application) shall consist of a fully executed registration form, map and fee. Acreage registered by April 1 may be issued a burn permit if:

(A) Allocation is available; and

(B) The initial registration fee account has a sufficient balance.

(b) Registration of open field burning and propane flaming acreage after April 1 of each year shall require the prior approval of the Department and an additional \$1 per acre late registration fee. The late registration fee shall not be charged if the late registration is not due to the fault of the registrant or one under the registrant's control;

(c) Copies of all registration forms and fees shall be forwarded to the Department promptly by the permit agent. Registration map materials shall be made available to the Department at all times for inspection and reproduction;

(d) The Department shall act on any registration application within 60 days of receipt of a completed application. The Department may deny or revoke any registration application which is incomplete, false or contrary to state law or this Division;

(e) The grower registrant shall insure the information presented on the registration form and map is complete and accurate.

(2) Permits:

(a) Permits for open field burning, propane flaming, or stack or pile burning shall be issued by the Department, or its authorized permit agent, to the grower registrant in accordance with the established procedures of the Department, and the times, locations, amounts and other restrictions set forth by the Department or this Division;

(b) A fire permit from the local fire permit issuing agency is also required for all open burning pursuant to ORS 477.515, 477.530, 476.380, 478.960;

(c) A valid open field burning permit shall consist of:

(A) An open field burning permit issued by the Department which specifies the permit conditions in effect at all times while burning and which identifies the acreage specifically registered and annually allocated for burning;

(B) A validation number issued by the local permit agent on the day of the burn identifying the specific acreage allowed for burning and the date and time the permit was issued.

(d) A valid propane flaming permit shall consist of:

(A) A propane flaming permit issued by the Department which specifies the permit conditions in effect at all times while flaming and which identifies the acreage specifically registered and annually allocated for propane flaming;

(B) A validation number issued by the local permit agent identifying the specific acreage allowed for propane flaming and the date and time the permit was issued.

(e) A valid stack or pile burning permit shall consist of the name of the responsible person and date the permit was issued, and shall specify the acreage and location authorized;

(f) Each responsible person open field burning, propane flaming, or stack or pile burning shall pay a per acre burn fee within ten days of the date the permit was issued. The fee shall be:

(A) \$8 per acre sanitized by open field burning;

(B) \$2 per acre sanitized by propane flaming;

(C) For all acreage burned in stacks or piles:

(i) \$2 per acre from January 1, 1992 to December 31, 1997;

(ii) \$4 per acre burn fee in 1998;

(iii) \$6 per acre burn fee in 1999;

(iv) \$8 per acre burn fee in 2000; and

(v) \$10 per acre burn fee in 2001 and thereafter.

(D) For grass seed and cereal grain residue from previous seasons, broken bales, or fields where a portion of straw was removed using usual or standard baling methods, the acreage actually burned shall be estimated and the same per acre fee as imposed in paragraph (C) of this subsection shall be charged. The estimated acreage shall be rounded to the nearest whole acre.

(g) Burning permits shall at all times be limited by and subject to the burn schedule and other requirements or conditions announced or set forth by the Department;

(h) No person shall issue burning permits for open field burning, propane flaming, or stack or pile burning of:

(A) More acreage than the amount sub-allocated annually to the District by the Department pursuant to OAR ~~340-026-0013266-0060~~(2);

(B) Priority or fire safety buffer zone acreage located on the upwind side of any city, airport, Interstate freeway or highway within the same priority area or buffer zone.

(i) It is the responsibility of each local permit issuing agency to establish and implement a system for distributing open field burning, propane flaming, or stack or pile burning permits to individual grower registrants when burning is authorized, provided that such system is fair, orderly and consistent with state law, this Division and any other provisions set forth by the Department.

(3) Fees:

(a) Permit agents shall collect, properly document, and promptly forward all required registration, late registration fees, and burn fees to the Department;

(b) All fees shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund and shall be appropriated pursuant to ORS 468A.550 to 468A.620.

(4) Records:

(a) Permit agents shall at all times keep proper and accurate records of all transactions pertaining to registrations, permits, fees, allocations, and other matters specified by the Department. Such records shall be kept by the permit agent for a period of at least five years and made available for inspection by the appropriate authorities;

(b) Permit agents shall submit to the Department on specially provided forms weekly reports of all acreage burned in their permit jurisdictions. These reports shall cover the weekly period of Monday through Sunday, and shall be mailed and post-marked no later than the first working day of the following week.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.615

Hist.: DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. 6-4-76; DEQ 138, f. & ef. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; renumbered from OAR 340-026-0012.

~~340-026-0013266-0060~~

Acreage Limitations, Allocations

(1) Limitation of Acreage:

(a) Except for acreage and residue open field burned pursuant to OAR ~~340-026-0035266-0100 through 340-026-0040, 340-026-0045, and 340-026-0055~~ OAR 340-266-0130, the maximum acreage to be open field burned annually in the Willamette Valley under this Division shall not exceed:

(A) 120,000 acres for 1994 and 1995;

(B) 100,000 acres for 1996 and 1997; and

(C) 40,000 acres for 1998 and thereafter.

(b) Notwithstanding the annual limitations, up to 25,000 acres of steep terrain and species identified by the Director of Agriculture may be open field burned or propane flamed annually and shall be considered outside the limitation;

(c) Other limitations on acreage allowed to be open field burned are specified in OAR ~~340-026-0015266-0070(7), 340-026-0031266-0080(2), 340-026-0033266-0090(1) and 340-026-0035266-0100(1)~~;

(d) The maximum acreage to be propane flamed annually in the Willamette Valley under this Division shall not exceed 75,000 acres;

(e) Other limitations on acreage allowed to be propane flamed are specified in OAR ~~340-026-0045266-0120~~.

(2) Allocation of Acreage:

(a) In the event that total registration as of April 1 is less than or equal to the maximum acreage allowed to be open field burned or propane flamed annually, pursuant to subsection (1)(a) and (d) of this rule, the Department shall sub-allocate to each grower registrant and each district (subject to daily burn authorization) 100 percent of their respective registered acreage;

(b) In the event that total registration as of April 1 exceeds the maximum acreage allowed to be open field burned or propane flamed annually, pursuant to subsection (1)(a) of this rule, the Department may sub-allocate to growers on a pro rata share basis not more than 100 percent of the maximum acreage limit, referred to as "grower allocation". In addition, the

Department shall sub-allocate to each respective fire district, its pro rata share of the maximum acreage limit based on acreage registered within the district, referred to as "district allocation";

(c) To ensure optimum permit utilization, the Department may adjust fire district allocations;

(d) Transfer of allocations for farm management purposes may be made within and between fire districts and between grower registrants on a one-in/one-out basis under the supervision of the Department. The Department may assist grower registrants by administering a reserve of released allocation for first come-first served utilization.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.610

Hist.: DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. & ef. 6-4-76; DEQ 138, f. & ef. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 13-1979, f. & ef. 6-8-79; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; renumbered from OAR 340-026-0013.

340-026-0015266-0070

Daily Burning Authorization Criteria

As part of the Smoke Management Program provided for in ORS 468A.590, the Department shall set forth the types and extent of open field burning, propane flaming, and stack and pile burning to be allowed each day according to the provisions established in this section and this Division:

(1) During the active burning season and on an as needed basis, the Department shall announce the burning schedule over the burning radio network operated specifically for this purpose. The schedule shall specify the times, locations, amounts and other restrictions in effect for open field burning, propane flaming, and stack and pile burning. The Department shall notify the State Fire Marshal of the burning schedule for dissemination to appropriate Willamette Valley agencies.

(2) Prohibition conditions:

(a) Prohibition conditions shall be in effect at all times unless specifically determined and announced otherwise by the Department;

(b) Under prohibition conditions, no permits shall be issued and no open field burning shall be conducted in any area except for individual burns specifically authorized by the Department on a limited extent basis. Such limited burning may include field-by-field burning, preparatory burning, or burning of test fires, except that:

(A) No open field burning shall be allowed:

(i) In any area subject to a ventilation index of less than 10.0;

(ii) In any area upwind, or in the immediate vicinity, of any area in which, based upon real-time monitoring, a violation of federal or state air quality standards is projected to occur.

(B) Only test-fire burning may be allowed:

(i) In any area subject to a ventilation index of between 10.0 and 15.0, inclusive, except for experimental burning specifically authorized by the Department pursuant to OAR 340-026-0035266-0100;

(ii) When relative humidity at the nearest reliable measuring station exceeds 50 percent under forecast northerly winds or 65 percent under forecast southerly winds.

(3) Marginal conditions:

(a) The Department shall announce that marginal conditions are in effect and open field burning is allowed when, in its best judgment and within the established limits of this Division, the prevailing atmospheric dispersion and burning conditions are suitable for satisfactory smoke dispersal with minimal impact on the public, provided that the minimum conditions set forth in

paragraphs (2)(b)(A) and (B) of this rule are satisfied;

(b) Under marginal conditions, permits may be issued and open field burning may be conducted in accordance with the times, locations, amounts, and other restrictions set forth by the Department and this Division.

(4) Hours of burning:

(a) Burning hours shall be limited to those specifically authorized by the Department each day and may be changed at any time when necessary to attain and maintain air quality;

(b) Burning hours may be reduced by the fire chief or his deputy, and burning may be prohibited by the State Fire Marshal, when necessary to prevent danger to life or property from fire, pursuant to ORS 478.960.

(5) Locations of burning:

(a) Locations of burning shall at all times be limited to those areas specifically authorized by the Department; except that

(b) No priority or fire safety buffer zone acreage shall be burned upwind of any city, airport, Interstate freeway or highway within the same priority area or buffer zone;

(c) No south Valley priority acreage shall be burned upwind of the Eugene-Springfield non-attainment area.

(6) Amounts of burning:

(a) To provide for an efficient and equitable distribution of burning, daily authorizations of acreages shall be issued by the Department in terms of single or multiple fire district quotas. The Department shall establish quotas for each fire district and may adjust the quotas of any district when conditions in its judgment warrant such action;

(b) Unless otherwise specifically announced by the Department, a one quota limit shall be considered in effect for each district authorized for burning;

(c) The Department may issue more restrictive limitations on the amount, density or frequency of burning in any area or on the basis of crop type, when conditions in its judgment warrant such action.

(7) Limitations on burning based on air quality:

(a) The Department shall establish the minimum allowable effective mixing height required for burning based upon cumulative hours of smoke intrusion in the Eugene-Springfield area as follows;

(b) Except as provided in paragraph (C) of this subsection, burning shall not be permitted whenever the effective mixing height is less than the minimum allowable height specified in **Table 1**, and by reference made a part of this Division;

(c) Notwithstanding the effective mixing height restrictions of paragraph (b) of this subsection, the Department may authorize burning of up to 1,000 acres total per day for the Willamette Valley, consistent with smoke management considerations and this Division.

(8) Limitations on burning based on rainfall:

(a) Open field burning and propane flaming shall be prohibited in any area for one drying day (up to a maximum of four consecutive drying days) for each 0.10 inch increment of rainfall received per day at the nearest reliable measuring station;

(b) The Department may waive the restrictions of subsection (a) of this section when dry fields are available as a result of special field preparation or condition, irregular rainfall patterns, or unusually high evaporative weather condition.

(9) Other discretionary provisions and restrictions:

(a) The Department may require special field preparations before burning, such as, but not limited to, mechanical fluffing of residues, when conditions in its judgment warrant such action;

(b) The Department may designate specified periods following permit issuance within which time active field ignition must be initiated and/or all flames must be actively extinguished before said permit is automatically rendered invalid;

(c) The Department may designate additional areas as priority areas when conditions in its judgment warrant such action.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the Department of Environmental Quality.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.590

Hist.: DEQ 29, f. 6-12-71, ef. 7-12-71; DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. & ef. 6-4-76; DEQ 138, f. 6-30-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 24-1979(Temp), f. & ef. 7-5-79; DEQ 28-1979, f. & ef. 9-13-79; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1994, f. & cert. ef. 5-31-94; renumbered from OAR 340-026-0015.

340-026-0031266-0080

Burning by Public Agencies (Training Fires)

Open field burning on grass seed or cereal grain acreage by or for any public agency for official purposes, including the training of fire-fighting personnel, may be permitted by the Department on a prescheduled basis consistent with smoke management considerations and subject to the following conditions:

(1) Such burning must be deemed necessary by the official local authority having jurisdiction and must be conducted in a manner consistent with its purpose.

(2) Such burning must be limited to the minimum number of acres and occasions reasonably needed but in no case exceed 5 acres per fire or occasion.

(3) The responsible person shall comply with the provisions of OAR ~~340-026-0010266-0040~~ through ~~340-026-0013266-0060~~.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.020

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1993, f. & cert. ef. 5-11-93; DEQ 8-1993, f. & cert. ef. 5-11-93; renumbered from OAR 340-026-0031.

~~340-026-0033266-0090~~

Preparatory Burning

The Department encourages the preparatory burning of portions of selected problem fields to reduce or eliminate potential fire hazards and safety problems and to expedite the subsequent burning of the field. Such burning shall be consistent with smoke management considerations and subject to the following conditions:

(1) Each responsible person shall limit the acres burned to the minimum necessary to eliminate potential fire hazards or safety problems but in no case exceed five acres for each burn unless specifically authorized by the Department.

(2) Each responsible person conducting preparatory burning shall employ backfiring burning techniques.

(3) Each responsible person conducting preparatory burning shall comply with the provisions of OAR ~~340-026-0010266-0040~~ through ~~340-026-0013266-0060~~ and OAR 837-110-0010 through 837-110-0090.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.600

Hist.: DEQ 11-1987, f. & ef. 6-15-87; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; renumbered from OAR 340-026-0033.

~~340-026-0035266-0100~~

Experimental Burning

The Department may allow open field burning for demonstration or experimental purposes pursuant to the provisions of ORS 468A.620, consistent with smoke management considerations and subject to the following conditions:

(1) Acreage experimentally open field burned, propane flamed, or stack or pile burned shall not exceed 1,000 acres annually.

(2) Acreage experimentally burned shall not apply to the district allocation or to the maximum annual acreage limit specified in OAR ~~340-026-0013266-0060~~(1)(a) or (d).

(3) Such burning is exempt from the provisions of OAR ~~340-026-0015266-0070~~ but must comply with the provisions of OAR ~~340-026-0010266-0040~~ and ~~340-026-0012266-0050~~, except that the Department may elect to waive all or part of the per acre open field burning or propane flaming fee.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.620

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-026-0035.

~~340-026-0040266-0110~~

Emergency Burning Cessation

Pursuant to ORS 468A.610 and upon finding of extreme danger to public health or safety, the Commission may order temporary emergency cessation of all open field burning in any area of the Willamette Valley.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR ~~340-020-0047200-0040~~.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.610

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; renumbered from OAR 340-026-0040.

340-026-0045266-0120

Propane Flaming

(1) The use of propane flammers, mobile field sanitizing devices, and other field sanitation methods specifically approved by the Department are subject to the following conditions:

(a) The field shall first be prepared as follows:

(A) Either the field must have previously been open burned and the appropriate fees paid; or

(B) The field stubble must be flail-chopped, mowed, or otherwise cut close to the ground and the loose straw removed so the remaining stubble will not sustain an open fire.

(b) Propane flaming operations shall comply with the following criteria:

(A) Unless otherwise specifically restricted by the Department propane flaming may be conducted only between the hours of 9 a.m. and sunset between June 1 and August 31 of each year and (9 a.m. to 1/2 hour before sunset between September 1 and October 14 of each year;

(B) Propane flammers shall be operated in overlapping strips, crosswise to the prevailing wind, beginning along the downwind edge of the field;

(C) No person shall cause or allow propane flaming which results in sustained open fire. Should sustained open fire create excessive smoke all flame and smoke sources shall be immediately and actively extinguished;

(D) No person shall cause or allow any propane flaming which results in visibility impairment on any Interstate highways or roadways specified in OAR 837-110-0080(1) and (2). Should visibility impairment occur, all flame and smoke sources shall be immediately and actively extinguished;

(E) The acreage must be registered and permits obtained pursuant to OAR340-026-0012266-0050;

(F) No person shall cause or allow propane flaming when either the relative humidity at the nearest reliable measuring station exceeds 65 percent or the surface winds exceed 15 miles per hour;

(G) All regrowth over eight inches in height shall be mowed or cut close to the ground and removed.

(c) All propane flaming operations shall be conducted in accordance with the State Fire Marshal's safety requirements specified in OAR 837-110-0100 through 837-110-0160;

(d) No person shall cause or allow to be initiated or maintained any propane flaming or other mobile fire sanitation methods not certified by the Department on any day or at any time if the Department has determined and notified the State Fire Marshal that propane flaming is prohibited because of adverse meteorological or air quality conditions.

(2) The Department may issue restrictive limitations on the amount, density or frequency of propane flaming or other mobile fire sanitation methods in any area when meteorological conditions are unsuitable for adequate smoke dispersion, or deterioration of ambient air quality occurs.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-026-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.600

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; renumbered from OAR 340-026-0045.

340-026-0055266-0130

Stack Burning

The open burning of piled or stacked residue from perennial or annual grass seed or cereal grain crops used for seed production is allowed subject to the following conditions:

(1) No person shall cause or allow to be initiated or maintained any stack or pile burning on any day or at any time if the Department has notified the State Fire Marshal that such burning is prohibited because of meteorological or air quality conditions.

(2) No person shall cause or allow stack or pile burning of any grass seed or cereal grain residue unless said residue is dry and free of all other combustible and non-combustible material.

(3) Each responsible person shall make every reasonable effort to promote efficient burning, minimize smoke emissions, and extinguish any stack burning which is in violation of any rule of the Commission.

(4) No stack or pile burning shall be conducted within any State Fire Marshal buffer zone "non-combustible ground surface" area (e.g., within 1/4 mile of Interstate I-5, or 1/8 mile of any designated roadway), as specified in OAR 837-110-0080.

(5) The acreage must be permitted pursuant to OAR 340-026-0012266-0050.

(6) Unless otherwise specifically agreed by the parties, after the straw is removed from the fields of the grower, the responsibility for the further disposition of the straw, including burning or disposal, and payment of the appropriate fees, shall be upon the person who bales, removes, controls, or is in possession of the straw.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.600

Hist.: DEQ 11-1987, f. & ef. 6-15-88; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; renumbered from OAR 340-026-0055.

TABLE 1
(OAR 340-026-0015266-0070)

**MINIMUM ALLOWABLE EFFECTIVE MIXING HEIGHT
REQUIRED FOR BURNING BASED UPON THE CUMULATIVE HOURS
OF SMOKE INTRUSION IN THE EUGENE-SPRINGFIELD AREA**

**Cumulative Hours of Smoke
Intrusion in the
Eugene-Springfield Area**

**Minimum Allowable Effective
Mixing Height (feet)**

0 - 14
15 - 19
20 - 24
25 and greater

No minimum
4,000
4,500
5,500

DIVISION 268

EMISSION REDUCTION CREDITS

340-268-0010

Applicability

This division applies to all sources in the state.

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

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93

340-268-0020

Definitions

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

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.:

340-028-1980268-0030

Emission Reduction Credit Banking

The owner or operator of a source of air pollution who wishes to reduce emissions by implementing more stringent controls than required by a permit or an applicable regulation may bank such emission reductions. Cities, counties or other local jurisdictions may participate in the emissions bank in the same manner as a private firm. Emission reduction credit banking shall be subject to the following conditions:

- (1) To be eligible for banking, emission reduction credits shall be in terms of actual emission decreases resulting from permanent continuous control of existing sources. The baseline for determining emission reduction credits shall be the actual emissions of the source or the PSEL established pursuant to OAR ~~340-028-1000~~ through ~~340-028-1040~~ division 222.
- (2) Emission reductions may be banked for a specified period not to exceed ten years unless extended by the Commission, after which time such reductions will revert to the Department for use in attainment and maintenance of air quality standards.
- (3) Emission reductions which are required pursuant to an adopted rule shall not be banked.
- (4) Permanent source shutdowns or curtailments other than those used within two years for contemporaneous offsets as provided in OAR ~~340-028-1970~~224-0090(5) are not eligible for banking by the owner or operator but will be banked by the Department for use in attaining and maintaining standards. The two year limitation for contemporaneous offsets shall not be applicable to those shutdowns or curtailments which are included in an approved specific plan for use as offsets within the same source containing the shutdown or curtailment. Such plan shall be submitted to the Department and receive written approval within two years of the permanent shutdown or curtailment. A permanent source shutdown or curtailment shall be considered to have occurred when a permit is modified, revoked or expires without renewal pursuant to the criteria established in Division 14 of this Chapter or OAR ~~340-028-2200~~218-0120 through ~~340-028-2280~~218-0200.
- (5) The amount of banked emission reduction credits shall be discounted without compensation to the holder for a particular source category when new regulations requiring emission reductions are adopted by the Commission. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required for existing sources which are subject to the new regulation. Banked emission reduction credits shall be subject to the same rules, procedures, and limitations as permitted emissions.
- (6) Emission reductions shall be in the amount of ten tons per year or more to be creditable for banking except as follows:
 - (a) In the Medford-Ashland AQMA emission reductions shall be at least in the amount specified in **Table 2** of OAR ~~340-028-0110~~200-0020;
 - (b) In Lane County, LRAPA may adopt lower levels.
- (7) Requests for emission reduction credit banking shall be submitted to the Department and shall contain the following documentation:

- (a) A detailed description of the processes controlled;
- (b) Emission calculations showing the types and amounts of actual emissions reduced;
- (c) The date or dates of such reductions;
- (d) Identification of the probable uses to which the banked reductions are to be applied;
- (e) Procedure by which such emission reductions can be rendered permanent and enforceable.

(8) Requests for emission reduction credit banking shall be submitted to the Department prior to or within the year following the actual emissions reduction. The Department shall approve or deny requests for emission reduction credit banking and, in the case of approvals, shall issue a letter to the owner or operator defining the terms of such banking. The Department shall take steps to insure the permanence and enforceability of the banked emission reductions by including appropriate conditions in permits and, if necessary, by appropriate revision of the State Implementation Plan.

(9) The Department shall provide for the allocation of the banked emission reduction credits in accordance with the uses specified by the holder of the emission reduction credits. When emission reduction credits are transferred, the Department shall be notified in writing. Any use of emission reduction credits shall be compatible with local comprehensive plans, statewide planning goals, and state laws and rules.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.
Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0265; DEQ 19-1993, f. & cert. ef. 11-4-93; renumbered from OAR 340-028-1980.

~~340-028-1960~~268-0040

Baseline for Determining Credit for Offsets

(1) The baseline for determining credit for emission offsets shall be the PSEL established pursuant to OAR ~~340-028-1000~~ through ~~340-028-1040~~ division 222 or, in the absence of a PSEL, the actual emission rate for the source providing the offsets.

(2) Sources in violation of air quality emission limitations may not supply offsets from those emissions which are or were in excess of permitted emission rates.

(3) Emission reductions which are required pursuant to any state or federal regulation, or permit condition shall not be used for offsets.

(4) Approval of offsets shall not exempt the proposed major sources or major modifications from BACT, LAER, NSPS and National Emission Standards for Hazardous Air Pollutants (NESHAPS) where required.

(5) Offsets, including offsets from mobile and area source categories, shall be quantifiable and enforceable before the ACDP is issued and shall be demonstrated to remain in effect throughout the life of the proposed source or modification.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR ~~340-020-0047~~200-0040.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0255; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96; renumbered from OAR 340-028-1960.