



**Oregon Department of Environmental Quality**  
July 18-19, 2019  
Oregon Environmental Quality Commission Meeting  
Agency Staff Report  
Rulemaking, Action Item H

**Federal Landfill Emission Guidelines 2019**

**Table of Contents**

DEQ Recommendation .....	2
Introduction .....	2
Statement of Need .....	4
Rules Affected, Authorities, Supporting Documents.....	5
Fee Analysis.....	7
Statement of Fiscal and Economic Impact .....	7
Federal Relationship .....	11
Land Use.....	12
EQC Prior Involvement.....	13
Advisory Committee .....	13
Public Engagement .....	13
Implementation.....	25
Five-Year Review .....	27

## DEQ Recommendation

DEQ recommends that the Environmental Quality Commission:

1. Adopt the proposed rules as seen in Attachment A as part of Chapter 340 of the Oregon Administrative Rules; and
2. Approve incorporating the amended OAR 340-236-0010 into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and
3. Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval; and
4. Direct DEQ to submit the Oregon Amended State Plan to Implement the Emission Guidelines for Municipal Solid Waste Landfills to the U.S. Environmental Protection Agency for approval.

*Proposed motion:*

*“I move that the Oregon Environmental Quality Commission:*

- 1. Adopt the proposed rule changes as seen in Attachment A as part of Chapter 340 of the Oregon Administrative Rules; and*
- 2. Approve incorporating the amended OAR 340-236-0010 into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and*
- 3. Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval; and*
- 4. Direct DEQ to submit the Oregon Amended State Plan to Implement the Emission Guidelines for Municipal Solid Waste Landfills to the U.S. Environmental Protection Agency for approval”*

## Introduction

DEQ proposes rules to adopt new and amended federal air quality regulations concerning municipal solid waste landfills. These include:

- Adopting new federal new source performance standards for municipal solid waste landfills
- Adopting rules to implement new federal emission guidelines for municipal solid waste landfills
- Adopting newly amended federal standards for such landfills
- Making typographical corrections to the list of federal regulations adopted by reference

In addition to the changes above, OAR 340-236-0010 is also part of Oregon’s EPA-approved State Implementation Plan. With EQC adoption of the revised rules, the amended OAR 340-236-0010 would be submitted to EPA to be incorporated into and made part of the Oregon SIP.

## **Brief history**

The federal Clean Air Act requires the U.S. Environmental Protection Agency to establish National Emission Standards for Hazardous Air Pollutants, known as NESHAPs, for both major and area sources of hazardous air pollutants. EPA finished establishing major source standards in 2004. EPA began establishing area source standards in 2006 and concluded in 2011. EPA may adopt additional NESHAPs in the future for new source categories or source categories it may have missed.

The Clean Air Act also requires EPA to develop New Source Performance Standards for categories of sources that cause or significantly contribute to air pollution that may endanger public health or welfare. Such regulations apply to each new source within a category without regard to source location or existing air quality. When EPA establishes New Source Performance Standards for a category of sources, it may also establish emission guidelines for existing sources in the same category. States must develop rules and a state plan to implement Emission Guidelines or request delegation of the federal plan. State plans, called Section 111(d) plans, are subject to EPA review and approval.

EPA performs a residual risk analysis for major source NESHAPs and periodic technology reviews for New Source Performance Standards and NESHAPs. These reviews are ongoing and in some cases result in EPA updating the standards. EPA also revises NESHAPs to address errors, implementation issues and lawsuits. Oregon must perform periodic revisions and updates to its state rules when there are changes to federal NESHAPs and New Source Performance Standards. This rulemaking is such an update.

## **Regulated parties**

This rulemaking regulates facilities subject to new and modified NESHAPs and New Source Performance Standards outlined below.

## **Request for other options**

DEQ requested public comment on whether there are other options that should be considered for achieving the rules' substantive goals while reducing the rules' negative economic impact on business. No comments suggesting such options were received.

# Statement of Need

## What need would the proposed rule address?

Oregon does not have rules to implement several categories of federal standards and emission guidelines, and the proposal would bring Oregon's rules in alignment with current federal standards and emissions guidelines.

Specifically, these changes would effect:

a. **Sources that may endanger public health and welfare**

EPA identified municipal solid waste landfills as potentially causing or significantly contributing to air pollution that may endanger public health or welfare. EPA adopted new source performance standards to regulate the amount of emissions municipal solid waste landfills can produce to better protect public health and welfare. Not adopting federal standards impacts the public and the environment, because DEQ cannot enforce federal standards not yet adopted by EQC.

b. **Federal emission guidelines**

EPA adopted emission guidelines for municipal solid waste landfills. States are required to develop rules and state plans to implement federal emission guidelines. The new guidelines update the emission guidelines for municipal solid waste landfills established by EPA in 1996.

The updated emission guidelines retain the current design capacity thresholds of 2.5 million megagrams and 2.5 million cubic meters, but reduce the nonmethane organic compounds emission threshold for the installation and removal of a gas collection and control system from 50 megagrams per year to 34 megagrams per year. A municipal solid waste landfill that exceeds the design capacity thresholds must install and start up a gas collection and control system within 30 months after landfill gas emissions reach or exceed a nonmethane organic compounds emissions level of 34 megagrams per year. Currently there is one municipal solid waste landfill, Knott Landfill in Bend, that emits between 34 and 50 megagrams of nonmethane organic compounds per year. Therefore, the proposed rules to implement the updated federal emission guidelines would likely require this one landfill to install a gas collection and control system. Other landfills could be similarly affected in the future if they were to exceed the 34 megagrams per year control threshold.

The updated federal emission guidelines also add new or updated monitoring and compliance demonstration provisions that need to be incorporated into DEQ's existing rule that implements the federal emissions guidelines.

c. **Revised federal standards**

EPA revised several standards since EQC's previous adoption of federal standards. Not adopting the most recent version of federal standards impacts Oregon businesses, because they may be subject to two different standards, the revised federal standards and the outdated state standards. Not adopting the most recent version of the federal

standards also impacts the public and the environment, because DEQ cannot enforce federal standards not yet adopted by EQC.

**How would the proposed rule address the need?**

The proposed rules would update Oregon rules to reflect new and amended federal standards and implement the federal emission guidelines for municipal solid waste landfills, which keeps Oregon consistent with federal rules while protecting Oregon’s environment and human health.

- a. **Sources that may endanger public health and welfare**  
DEQ proposes adopting the new federal new source performance standards for municipal solid waste landfills.
- b. **Federal emission guidelines**  
DEQ proposes to amend its rule that implements the emission guidelines for existing municipal solid waste landfills.
- c. **Revised federal standards**  
DEQ proposes adopting revised federal standards by reference.

**How will DEQ know the rule addressed the need?**

Upon EQC adoption, DEQ would submit the rules to EPA to update Oregon’s New Source Performance Standard and NESHAP delegation. DEQ would also submit a plan to EPA to implement the federal emission guidelines for municipal solid waste landfills.

DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and plan to implement the updated emission guidelines for municipal solid waste landfills.

## **Rules Affected, Authorities, Supporting Documents**

**Lead division**

Air Quality

**Program or activity**

Air Operations

**Chapter 340 action**

Recommendation	Division	Rule	Title
Amend	200	0040	State of Oregon Clean Air Act Implementation Plan
Amend	236	0010	Definitions
Amend	236	0500	Emissions Standards for Municipal Solid Waste Landfills
Amend	238	0040	Definitions
Amend	238	0060	Federal Regulations Adopted by Reference

Amend 244 0030 Definitions  
 Amend 244 0220 Federal Regulations Adopted by Reference

**Statutory authority - ORS**

468.020 468A.025 468A.035 468A.040 468A.050 468A.310  
 468A

**Statute implemented - ORS**

468.020 468A.025 468A.035 468A.040 468A.050 468A.310  
 468A.135

**Documents relied on for rulemaking**

Document title	Document location
Code of Federal Regulations	<a href="http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR">http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR</a>
Federal Register	<a href="http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR">http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR</a>
Oregon Administrative Rules	<a href="https://www.oregon.gov/deq/Regulations/Pages/Administrative-Rules.aspx">https://www.oregon.gov/deq/Regulations/Pages/Administrative-Rules.aspx</a>
Oregon Revised Statutes	<a href="https://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx">https://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx</a>

## Fee Analysis

This rulemaking does not involve fees

## Statement of Fiscal and Economic Impact

### Fiscal and Economic Impact

EPA evaluates the impacts of new federal standards when promulgated and lists them in the regulation's preamble. The fiscal and economic impacts of the new federal standards included in this rulemaking have already occurred.

The list of proposed new and amended National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards includes links to the federal rules and EPA's evaluation of fiscal and economic impacts in their preambles. The list is available at the end of this document.

### Statement of Cost of Compliance

#### State agencies

DEQ expects any fiscal and economic impacts on state agencies to be the same as those estimated for local governments as discussed below.

#### Local governments

Direct impact: DEQ expects direct fiscal and economic impacts on local governments that operate facilities subject to federal emission standards would be the same as those estimated for small businesses.

Indirect impact: The proposed rules could have an indirect impact on local governments if large and small businesses change the price of goods and services to offset any increased or decreased costs from obtaining a permit or paying permit fees.

There would be an indirect impact on Oregon cities and counties when affected businesses that are required to have a permit request a Land Use Compatibility Statement. Local governments process those Land Use Compatibility Statements. Some cities and counties charge a fee to complete the Land Use Compatibility Statement and may have sufficient revenue to cover the added workload. Cities that do not charge a fee, or do not charge sufficient fees to cover their costs, may have new workload without adequate revenue. DEQ does not have available information to estimate these fiscal impacts.

#### Public

Direct impact: The proposed rules would not affect the public directly.

Indirect impact: The proposed rules could affect the public indirectly if large and small businesses change the price of goods and services to offset any increased or decreased costs from obtaining a permit and paying permit fees.

### **Large businesses - businesses with more than 50 employees**

DEQ expects any fiscal and economic impacts on large businesses to be the same as those estimated for small businesses as discussed below.

### **Small businesses – businesses with 50 or fewer employees**

Indirect impact: The proposed rules could have an indirect impact on small businesses if other businesses change the price of goods and services to offset any increased or decreased costs from obtaining a permit or paying a permit fee.

Direct impact: Small businesses might see increased or decreased costs due to the following proposed rules:

1. Adopt by reference federal new source performance standards for municipal solid waste landfills.

DEQ anticipates no additional fiscal and economic impacts from adopting the federal new source performance standards for municipal solid waste landfills. The fiscal and economic impacts occurred when EPA adopted the new source performance standards. EPA provides its evaluation of the fiscal and economic effects of the new source performance standards in the preamble to the regulation.

2. Adopt rules to implement updated federal emission guidelines for municipal solid waste landfills.

DEQ anticipates no additional fiscal and economic impacts from adopting standards equivalent to the federal emission guidelines for municipal solid waste landfills. The fiscal and economic impacts occurred when EPA adopted the federal emission guidelines. EPA provides its evaluation of the fiscal and economic effects of their guidelines in the preambles to their regulations.

3. Update the adoption by reference of previously adopted NESHAPs and NSPSs.

DEQ anticipates no fiscal and economic impacts from updating previously adopted federal standards because the fiscal and economic impacts occurred when EPA adopted the rule amendments. EPA evaluated the fiscal and economic effects of their rules and lists those effects in the preambles to their regulations.

#### **a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.**

Estimated number of businesses subject to the federal new source performance standards and emission guidelines: municipal solid waste landfills (7).



Estimated number of businesses subject to the amended federal standards: area source industrial, commercial, and institutional boilers (26); coal and oil-fired electric utility steam generating units (1); manufacturing nutritional yeast (0); ferroalloy production (0); publicly owned treatment works (0); petroleum refineries-catalytic cracking, catalytic reforming & sulfur recovery (0); wool fiberglass manufacturing (0); petroleum refineries (0); Portland cement manufacturing (1); aerospace manufacturing and rework (0); chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills (4); phosphoric acid manufacturing (0); petroleum refineries (0); crude oil and natural gas production, transmission and distribution (0); and stationary internal combustion engines (66).

**b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.**

Adoption of new and amended federal standards and rules to implement emission guidelines do not add any new reporting, recordkeeping and other administrative activities other than those already required by the federal standards and emission guidelines.

The requirement that businesses affected by the new federal standards obtain a permit may increase the administrative activities or costs of professional services on small businesses. These activities include permit application preparation and any additional recordkeeping and reporting required in the permit to comply with other Oregon rules and regulations.

**c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.**

Adoption of new and amended federal standards and rules to implement emission guidelines would not require small businesses to add any equipment, supplies, labor or administration because Oregon rules would adopt the federal standards by reference. Rules to implement emissions guidelines would be identical to implementing federal emission guidelines.

The requirement that businesses affected by the adoption of updated federal new source performance standards and rules to implement the updated federal emission guidelines for municipal solid waste landfills obtain a permit may require small businesses to add equipment, supplies, labor or administration to comply with other Oregon related rules and regulations. These rules and regulations include requirements to minimize visible emissions, fugitive emissions, particulate matter fallout, nuisances, and odors. To comply with these requirements, affected businesses may be required to install equipment and receive training to control and monitor emissions.

**d. Describe how DEQ involved small businesses in developing this proposed rule.**

DEQ did not appoint an advisory committee for this rulemaking because the rulemaking would primarily adopt federal regulations by reference and rules identical to the federal emission guidelines.

## Documents relied on for fiscal and economic impact

Document title	Document location
Code of Federal Regulations	<a href="http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR">http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR</a>
Federal Register	<a href="http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR">http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR</a>

### Advisory committee

DEQ did not appoint an advisory committee for this rulemaking because the rulemaking would primarily adopt federal regulations by reference and rules that are identical to the federal emission guidelines for municipal solid waste landfills.

### Housing cost

To comply with ORS 183.534, DEQ determined the proposed rules could have a negative impact on the cost of development of a 6,000 square-foot parcel and the construction of a 1,200 square-foot detached single-family dwelling on that parcel. This impact could occur if permit holders affected by new federal standards obtain a permit and pass the permitting fees for such development and construction through to the consumer. DEQ does not have available information to quantify how many permit holders would pass the permitting fees through to the consumer and any such estimate would be speculative.

# Federal Relationship

## Relationship to federal requirements

The proposed rules would adopt federal new source performance standards and NESHAPs by reference, and adopt standards that are equivalent to the federal emission guidelines for municipal solid waste landfills. The proposed rules are not different from or in addition to federal requirements

## What alternatives did DEQ consider if any?

DEQ considered:

- Not taking delegation of the updated federal new source performance standards for municipal solid waste landfills.
  - DEQ rejected this alternative because all of the affected sources are currently on DEQ permits and it is important to have all requirements applying to a source in the permit to ensure that the source is in compliance with all applicable air quality regulations.
- Not adopting standards to implement the updated federal emission guidelines for municipal solid waste landfills.
  - DEQ rejected this alternative because it would reduce DEQ's ability to ensure compliance and provide assistance to Oregon sources.
- Making state-specific changes to some federal standards.
  - DEQ rejected this alternative because the federal rules address Oregon's immediate concerns and consistency with the federal rules reduces cost and complexity for affected sources.

# Land use

## Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
  - Resources, objectives or areas identified in the statewide planning goals, or
  - Present or future land uses identified in acknowledged comprehensive plans

To determine whether the proposed rules involve programs or actions that affect land use, DEQ reviewed its Statewide Agency Coordination plan, which describes the DEQ programs that have been determined to significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Open Spaces, Scenic and Historic Areas, and Natural Resources
6	Air, Water and Land Resources Quality
9	Ocean Resources
11	Public Facilities and Services
16	Estuarial Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

## Determination

DEQ determined that the proposed rules will be implemented for major source categories through DEQ's Title V Operating Permit program and the standards for non-major source categories through DEQ's Air Contaminant Discharge Program. These are existing programs that the DEQ State Agency Coordination Program considers a land-use program.

## EQC Prior Involvement

DEQ did not present additional information specific to this proposed rule revision.

## Advisory Committee

DEQ did not convene an advisory committee for this rulemaking because the rulemaking would primarily adopt federal regulations by reference and rules that are identical to the federal emission guidelines for municipal solid waste landfills.

## Public Engagement

### Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing on April 1, 2019 by:

- On March 29, 2019 Filing notice with the Oregon Secretary of State for publication in the April 2019 Oregon Bulletin;
- Notifying the EPA by email;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Federal Landfill Emissions Guidelines 2019](#);
- Emailing approximately 10,281 interested parties on the following DEQ lists through GovDelivery:
  - Agency Rulemaking
  - DEQ Public Notices
  - NSPS/NESHAP
- Emailing the following key legislators required under [ORS 183.335](#):
  - Senator Michael Dembrow, Chair, Environment and Natural Resources Committee
  - State Representative Ken Helm, Chair, House Committee on Energy and Environment
  - Senate President Peter Courtney
  - House Speaker Tina Kotek
- Postings on Twitter and Facebook
- Posting on the DEQ event calendar: [DEQ Calendar](#)

### Public hearings

DEQ held one public hearing for the proposed rules and one public hearing for the State Plan. People could attend the hearings in person or by teleconference.

DEQ considered all written comments before completing the draft rules. DEQ summarized all comments and responded to comments in the summary of comments section below.

<b>Rulemaking Hearing 1</b>	
Date	May 2, 2019
Time	4 p.m.
Street Address	700 NE Multnomah St., Suite 600
City	Portland, OR 97232
Presiding Officer	Don Hendrix
Staff Presenter	Dan DeFehr
Call-in Phone Number	888-278-0296
Participant ID	8040259

<b>State Plan Hearing 2</b>	
Date	May 30, 2019
Time	4 p.m.
Street Address	700 NE Multnomah St., Suite 600
City	Portland, OR 97232
Presiding Officer	Dan DeFehr
Call-in Phone Number	888-278-0296
Participant ID	8040259

## **Public Hearing**

DEQ held one public hearing for the proposed rulemaking and one public hearing for the State Plan. DEQ received no comments at the hearings. Later sections of this document include a summary of the 29 comments received during the open public comment periods, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

## **Presiding Officers' Record**

### **Hearing 1: Federal Landfill Emission Guidelines 2019**

Date	May 2, 2019
Place	700 NE Multnomah St., Suite 600, Portland, OR 97232, Conference Room 610
Start Time	4 p.m.
End Time	4 p.m.
Presiding Officer	Don Hendrix

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who

wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice. No person presented any oral testimony or written comments.

## **Presiding Officers' Record**

### **Hearing 2: Amended State Plan to Implement the Emission Guidelines for Municipal Solid Waste Landfills**

Date	May 30, 2019
Place	700 NE Multnomah St., Suite 600, Portland, OR 97232, Conference Room 610
Start Time	4 p.m.
End Time	4 p.m.
Presiding Officer	Dan DeFehr

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the option to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the proposed state plan. No person presented any oral testimony or written comments.

## **Summary of Public Comments and DEQ Responses**

### **Public comment period for Federal Landfill Emission Guidelines**

DEQ accepted public comment on the proposed rulemaking from April 1, 2019 until 4 p.m. on May 10, 2019.

For public comments received by the close of the public comment period, the following organizes comments into 20 categories with cross references to the commenter number. DEQ's response follows the comment summary. Original comments are on file with DEQ.

DEQ considered and responded to all comments described in the response sections below.

**Comment 1**

We support the Oregon State plan to implement emission guidelines for municipal solid waste landfills in Oregon.

**DEQ Response**

DEQ appreciates your support.

**Comment 2**

We support Oregon DEQ's adoption of NESHAPs and NSPS.

**DEQ Response**

DEQ appreciates your support.

**Comment 3**

Title of rulemaking notice is unclear and confusing; it does not state that the proposal includes adopting NSPS and NESHAP standards.

**DEQ Response**

DEQ acknowledges that the title of the rulemaking does not clearly capture all the rule changes included in the rulemaking proposal. The rulemaking page, the public notice document, and the gov.delivery notice provided bullet points to summarize the proposed rule changes which include adoption of updated NSPS and NESHAP standards. As the most significant changes impact municipal solid waste landfills, DEQ deemed it appropriate to title the proposed rulemaking as such.

**Comment 4**

The "DEQ Proposal" section of the rulemaking notice does not reference the nature nor number of federal NSPSs and NESHAPs being adopted by the rulemaking.

**DEQ Response**

The NSPSs and NESHAPs proposed for adoption by the EQC are included in a table located at the end of the rulemaking proposal package. The column titled: "Subsequent EPA Revisions Proposed for EQC Adoption" lists the changes to the federal standards that are proposed for EQC adoption. They include changes to six Part 60 NSPS Subparts: A, Ja, XXX, IIII, JJJJ, and OOOOa and thirteen Part 63 NESHAP Subparts A, AA, CC, GG, MM, LLL, NNN, UUU, VVV, XXX, CCCC, UUUUU, and JJJJJJ. All proposed NSPS and NESHAP standards listed in the table for EQC adoption include a hyperlink to the Federal Register notice describing the changes in detail.

**Comment 5**

On page 37 of the proposed rules, it is unclear whether or not there is a change to NSPS BBa based on the color coding with track changes. Please provide clarification in the response to comments.



**DEQ Response**

Page 37 of the public notice rulemaking document, showing a redline strikeout version of the rules to clearly show the proposed changes, includes Oregon Administrative Rule 340-238-0060: Federal Regulations Adopted by Reference.

Part 3(II) of this section of rule indicates a change has occurred but there is no redline item or other change apparent. This is a typographical error. The existing rule language under 3(II) of this section did not end with a semicolon before proceeding to 3(mm). The only change to the rule language under 340-238-0060(3)(II) is the addition of a semicolon after “2013” to remain consistent with the rest of the rule language. No other changes are proposed for Part 60 NSPS Subpart BBa for Kraft pulp mills.

**Comment 6**

The color coding/description on the chart of proposed federal rules for adoption by reference attached beyond page 85 of the rule is confusing and needs clarification. Please provide clarification in the response to comments.

**DEQ Response**

Please see response to comment #4. The table has been used in NSPS and NESHAP-related rulemakings for several years. DEQ will review the table and layout in response to this comment and consider making changes and modifications deemed appropriate.

**Comment 7**

Please do not let the landfills poison us. If, despite your best efforts, you think they are going to poison us anyway, please tell us and name names.

**DEQ Response**

This rulemaking will not allow any landfill to emit landfill gases above an applicable threshold without capturing and controlling those gases. Landfills likely to be subject to the proposed rules can be found in section 1.3 of the State Plan.

**Comment 8**

Waste Management’s Riverbend Landfill is incorrectly listed in Section 1.3 (of the State Plan).

**DEQ Response**

DEQ has reviewed documents demonstrating that the Riverbend Landfill is subject to the Landfill NSPS (Subpart XXX), not the Landfill Emission Guidelines. DEQ has removed it from the list of designated facilities in the State Plan.

**Comment 9**

The new state regulations take effect when EPA has approved the state plan; include a regulatory provision explaining that the existing rules remain in effect until EPA approves the state plan.

**DEQ Response**

The new regulations take effect once approved by the EQC and filed with the Oregon Secretary of State. Noted, however, is the potential discrepancy in compliance dates for landfills subject to previous landfill regulations and the new emission guidelines. DEQ is reviewing existing and proposed requirements and has added clarifying language pertaining to compliance dates to ensure an orderly transition to new requirements for affected sources and to eliminate the potential for a landfill to backslide while waiting for the proposed requirements to become applicable.

**Comment 10**

The State Plan should specify an approval process for design plans. For example, if DEQ does not review a design plan within a prescribed period, defer approval to a Professional Engineer's certification.

**DEQ Response**

DEQ's proposed rules follow the review and approval process for collection and control system design plans as specified in §60.38f(d) of subpart Cf.

**Comment 11**

Oregon's land-use goals are at risk relating to landfills. Determine whether emission guidelines 'replace Oregon's land-use statutes.'

**DEQ Response**

The proposed rules do not alter, change, or override any existing local land use decisions or Oregon's land use laws.

**Comment 12**

Address how adopting federal regulations will not significantly affect land-use.

**DEQ Response**

The proposed rules do not impact a local jurisdiction's land use decision-making authority. The proposed rules limit the level of emissions a landfill may emit before being required to install a gas collection and control system.

**Comment 13**

An ongoing nuisance study would no longer be in play if DEQ adopts federal emissions criteria.

**DEQ Response**

The proposed rules would not affect any ongoing nuisance investigations and do not affect or override Oregon's nuisance rules in OAR 340 Division 208.

**Comment 14**

Can the landfill, after you adopt the emission guidelines, legally claim it is not a nuisance if the emissions are below the thresholds?

**DEQ Response**

The proposed landfill gas rules do not include any provisions that would allow a suspected source of nuisance odors to claim they are not a nuisance by demonstrating compliance with, or exemption from, the proposed rules.

**Comment 15**

If DEQ adopts rules not more stringent than existing EPA emission guidelines, will Riverbend get a pass with regard to its excessive emissions (excessive nuisance creation) in the name of gas extraction?

**DEQ Response**

See response to comment #14. The proposed rules not only require landfill gas to be captured from affected landfills, they also require extracted landfill gas to be controlled by routing the gas to a suitable energy recovery system or combustion device. Capture and control systems help to reduce odors and other hazards associated with landfill gas emissions and reduce the amount of methane, volatile organic compounds and hazardous air pollutants from migrating into the atmosphere and contributing to local smog and global climate change.

**Comment 16**

Is DEQ granting large, corporate out-of-state landfill companies the ability to make a legal argument to ignore Oregon land-use in lieu of these new federal standards? I ask that the State step back from accepting the Federal Standards for Landfill Guidelines and convene an Advisory Committee to specifically address how adopting these landfill emission standards might affect Oregon's land-use.

**DEQ Response**

The proposed rules to implement the new federal emission guidelines do not affect Oregon's land use laws, rather they lower the threshold at which some affected landfills in Oregon must capture and control their landfill gas emissions. DEQ's solid waste program continues to implement the location restrictions for municipal solid waste landfills established in Oregon Administrative Rules chapter 340, division 94.

Oregon law (ORS 183.33) allows a group of individuals or an association to request an advisory committee, but only if they object to a State agency's statement of fiscal impact, request an advisory committee for consideration of a permanent rule, and the request is made no later than 14 days after the notice of rulemaking is given. A request to convene an advisory committee to specifically review land use is not allowed under the Oregon law.

**Comment 17**

340-236-0500(6) Removal criteria could be made more explicit- it is unclear whether a landfill must meet one or all of the listed criteria.

**DEQ Response**

DEQ's interpretation, based on the preamble of the federal register notice FR Vol. 81, No. 167, page 59288 and page 59301, of the federal language and the proposed rule language is that a landfill wishing to cap, remove, or decommission the collection and control system must meet OAR 340-236-0500(6)(a through c) while a landfill in the closed subcategory (specifically defined; closed before 9/27/2017) must meet OAR 340-236-0500(6)(a, b, and d). DEQ has added clarifying language to the proposed rules to address this potential uncertainty.

**Comment 18**

DEQ should take the lead in establishing a process that requires all involved agencies to ensure that both land use and environmental goals are met by any industry expansion, modification, or other significant change.

**DEQ Response**

DEQ's process for permitting remains unchanged by this proposal. Establishing a process of this nature is not within the scope of this rulemaking. Affected sources and DEQ are required to follow the permitting requirements outlined in Oregon Administrative Rules, Chapter 340, Divisions 216 and 218, as applicable. An expansion or modification of a landfill may require compliance with other regulations or requirements.

**Comment 19**

There is no explanation of the changes that are being made in Oregon rules applicable to emissions from landfills.

**DEQ Response**

Beginning on page 21 of the public notice package is a redline strikeout version of proposed changes, titled 'Draft Rules – With Edits Highlighted.' See specifically page 25-26 for the previous rules specific to landfills and pages 26-32 for the new proposed rules. The public notice package section, 'Statement of Need' provides additional details in part 'b' on page 7 and the current rules posted with the Secretary of State and available from DEQ's website show the existing rules. The proposed rules address emissions levels at which gas collection and control systems are required.

**Comment 20**

The rulemaking documents do not mention the amended state plan to implement the new emission guidelines.

### DEQ Response

Page 5 of the public notice package clarifies that, in regards to emission guidelines, states must submit a state plan or request delegation of a federal plan. Page 8 of the public notice package includes a brief description of how DEQ will know the rule addressed the need; in this section DEQ states that these rules and a plan will be submitted to EPA for review and approval. The plan was separately noticed and open for comment through 5:00pm on May 31st, 2019; the State Plan for implementing these emission guidelines is designed in accordance with 40 C.F.R. Part 60 Subpart B, 'Adoption and Submittal of State Plans for Designated Facilities'.

### Commenter names

#	Name	Organization	Comment Number
1	Wendy Friedman	Unknown	1
2	Kathryn VanNatta	Northwest Pulp and Paper Association	2-6
3	Jason Hill	Unknown	7
4	David Lowe	Waste Management – Pacific Northwest Region	8-10
5	Ramsey McPhillips	McPhillips Farms	11-16
6	Susan Watkins	Unknown	17-20

### Public comment period for Oregon Amended State Plan to Implement the Emission Guidelines for Municipal Solid Waste Landfills

DEQ accepted public comment on the proposed State Plan from April 29, 2019, until 5 p.m. on May 31, 2019. For public comments received by the close of the public comment period, the following organizes comments into nine categories with cross references to the commenter number. DEQ's response follows the comment summary. Original comments are on file with DEQ. DEQ considered and responded to all comments described in the response sections below.

#### Comment 1

Measuring the size of landfills subject to the state plan in megagrams is unclear; measurement in tons would be preferred.

**DEQ Response**

A megagram is equal to 1.1 tons or about 2,205 pounds. For clarity, DEQ will include landfill measurements in both metric and English systems.

**Comment 2**

The plan does not meet the requirements of 40 C.F.R. part 60 subpart 60.25(a).

**DEQ Response**

The purpose of Section 1.6.1 of the state plan is to meet the requirements of 40 C.F.R. 60.25(a) and includes an inventory of designated facilities, including emissions data for the designated pollutants. 40 C.F.R. 60.25(a) also requires information related to emissions as specified in appendix D to 40 CFR part 60. DEQ has reviewed appendix D and added a table with landfill gas control information. DEQ believes the plan meets all legal requirements and expects to receive EPA's approval.

**Comment 3**

The chart (1.6.2) showing NMOC emissions in ppmv should be rewritten in megagrams.

**DEQ Response**

There are applicable thresholds as measured in parts per million by volume as well as megagrams so both units of measurement are listed in the table of 1.6.2. A megagram is equal to 1.1 tons or about 2,205 pounds. For clarity, DEQ will include landfill NMOC emissions for each listed landfill in both metric and English systems.

**Comment 4**

DEQ should be more stringent than the emission guidelines, requiring gas collection and control systems based on megagrams of NMOC emissions; the plan should not allow sources to demonstrate NMOC levels by surface monitoring and escape the requirements for a control system.

**DEQ Response**

DEQ may consider doing so in a future rulemaking. DEQ is adopting EPA's threshold determinations regarding surface monitoring and gas collection and control systems and is not making any suggested changes at this time. MSW landfills eligible for the surface monitoring demonstration are only ones with between 34 and 50 megagrams NMOC emissions per year as a landfill with 50 or more megagrams per year must install the collection system required by 40 C.F.R. part 63 subpart AAAA. The surface monitoring allows a landfill that exceeds the installation thresholds based on a modeling estimate, to demonstrate that actual surface emissions are below the threshold.

**Comment 5**

DEQ should identify which landfills will be required to take action based on the rules, and identify what those actions will be.

**DEQ Response**

Currently there is one landfill in Oregon that emits between 34 and 50 megagrams of nonmethane organic compounds per year that may need to install a gas collection and control system once the proposed rules are in effect. The rules would not likely require any other uncontrolled landfills to install a gas collection and control system unless in the future a landfill were to exceed an applicable threshold. The rules could require current landfills in Oregon to upgrade, improve or add to their capture and/or control systems, but that is not known at this time.

**Comment 6**

Why didn't DEQ expend additional effort to address odor problems instead of just methane?

**DEQ Response**

These requirements do indirectly address odors. As the waste in a landfill decomposes, it produces landfill gas, which includes carbon dioxide, a number of air toxics, and methane—a potent greenhouse gas with a global warming potential more than 25 times that of carbon dioxide. Methane is the second most prevalent greenhouse gas emitted by human activities in the United States, and nearly 20 percent of those emissions come from landfills. Landfills are the second largest industrial source of methane emissions in the United States. The new Landfill Emission Guidelines and the New Source Performance Standards, when implemented nationwide, will reduce methane emissions by an estimated 334,000 metric tons, the equivalent of reducing 8.2 million metric tons of carbon dioxide in 2025. The rules also cut carbon dioxide emissions directly, yielding an estimated 303,000 metric tons of additional carbon dioxide reductions.

The new Landfill Emission Guidelines and the New Source Performance Standards, when implemented nationwide, will also reduce more than 2,000 metric tons of emissions of non-methane organic compounds, which are measured as a surrogate for landfill gas and include a number of air toxics, along with pollutants that cause landfill odors. The capture and control systems required by the proposed rules do not only capture and control methane gas from the landfill, they also capture and control the other non-methane organic compounds. In fact, the emission standards in the proposed rules are in units of parts per million by volume of non-methane organic compounds or reduction of a weight percentage of non-methane organic compounds.

**Comment 7**

The emission standards in 1.6.2 lists identical numbers for four landfills.

**DEQ Response**

The emission standards in the proposed rules as shown in the state plan, which are based on the federal emission guidelines, are the same for each affected landfill.

**Comment 8**

There is reference, in the State Plan section 1.6.1, to an appendix D but there is no appendix A, B, C, or D.

**DEQ Response**

The appendix referenced in section 1.6.1 refer to appendices associated with the federal register notice and/or the Code of Federal Regulations, not an appendix of DEQ's State Plan. DEQ's plan contains 'exhibits'.

**Comment 9**

Which designated facilities are in or out of compliance?

**DEQ Response**

The proposed rules contained in the state plan are not applicable until they are adopted by the Environmental Quality Commission. Therefore, no designated facilities are in or out of compliance with the proposed rules at this time. In addition, the proposed rules allow for additional time after EQC adoption of the rules for designated facilities to achieve compliance.

**Commenter names**

#	Name	Organization	Comment Number
1	Dorothy Shoemaker	Unknown	1
2	Susan Watkins	Unknown	2-5
3	Ilsa Perse	Unknown	6-9



# Implementation

## Notification

The proposed rules would become effective upon filing on approximately July 19, 2019. DEQ would notify affected parties by:

- Emailing affected DEQ permit holders; and
- Emailing interested parties on the NSPS/NESHAP GovDelivery list; and
- Emailing DEQ's regional air quality managers and staff

## Compliance and enforcement

### Incorporating new and amended federal standards into Title V and Air Contaminant Discharge permits and ensuring compliance

Current DEQ rules require that DEQ place new and amended federal standards into Title V and Air Contaminant Discharge permits. Once the new and amended federal standards are incorporated into a permit, DEQ is required to inspect pollution control systems and/or prevention methods and to review monitoring data and compliance reports as part of their routine compliance inspections. Inspections may identify violations of emission limits and standards.

### Title V Sources

OAR 340-218-0200 requires each issued permit to be reopened and revised if additional applicable requirements under the federal Clean Air Act become applicable to a major Title V source with a remaining permit term of 3 or more years. Such a reopening must be completed no 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 340-218-0130. Amendments to federal standards will be incorporated upon permit renewal.

### Non-Title V Sources

Most non-major sources are exempted from Title V. However, OAR 340-216-0020(1) requires non-Title V sources to obtain an Air Contaminant Discharge Permit in order to operate. Some facilities affected by the new and amended federal standards are already on an Air Contaminant Discharge Permit. The new and amended federal standards will need to be incorporated into these facilities' permits.

OAR 340-216-0068 gives DEQ the ability to add new requirements to Simple or Standard Air Contaminant Discharge Permits by assigning the affected facilities to an Air Contaminant Discharge Permit Attachment. If EPA or DEQ action caused a facility to be subject to the new requirements, the facility would not be required to submit a permit application or pay fees for this permit action. The DEQ office in the region in which the affected facility is located would notify the affected facility of the proposed permitting action, and if the permittee does not object, assign the facility to the Air Contaminant Discharge Permit Attachment. The assignment would end when the affected facility's Simple or Standard

permit is renewed and the new requirements are rolled into the facility's Simple or Standard Air Contaminant Discharge Permit.

### **Measuring, sampling, monitoring and reporting**

- Affected parties: Any required compliance testing and reporting requirements are contained in the federal standards and will be incorporated into the permits of affected parties.
- DEQ staff: DEQ staff will process and review compliance reports submitted by affected parties to determine compliance with the federal standards.

### **Systems**

- Website: DEQ will update its website with any new or amended permits, permit application forms, and compliance reporting forms.
- Database: DEQ will use its existing TRAACS database to implement the Title V and Air Contaminant Discharge Permit programs and track compliance with the new and amended federal standards.
- Invoicing: DEQ will use its existing TRAACS database for invoicing.

### **Training**

Whenever possible, staff training will rely on EPA and industry training, workshops, and implementation materials. Headquarters staff will track training opportunities, workshops and implementation materials to get affected parties, and the appropriate DEQ staff, the necessary resources to comply with, and to implement, the new and amended federal standards. DEQ's headquarters staff will also visit regional offices when requested to discuss the new and amended federal standards.

## **Five-Year Review**

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

### **Exemption from five-year rule review**

The Administrative Procedures Act exempts some of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).
- Adopt a federal law or rule by reference. ORS 183.405(5)(b).

## **Accessibility Information**

You may review copies of all documents referenced in this document at:  
Oregon Department of Environmental Quality  
700 NE Multnomah St., Ste. 600  
Portland, OR, 97232

To schedule a review of all websites and documents referenced in this announcement, call Dan DeFehr, Portland, 503-229-6442 (800-452-4011, ext. 5622 toll-free in Oregon).

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

# Attachment A

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Division 200

#### GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

##### 340-200-0040

##### 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 DEQ and is adopted as the State Implementation Plan (SIP) of the State of Oregon under the FCAA, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR 340 division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified by the EQC on ~~May 16~~July 18, 2019.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the EPA any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 C.F.R. 51.102; and

(b) Approve the standards submitted by LRAPA if LRAPA adopts verbatim, other than non-substantive differences, any standard that the EQC has adopted, and submit the standards to EPA for approval as a SIP revision.

(4) Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the EPA. If any provision of the federally approved State Implementation Plan conflicts with any provision adopted by the EQC, DEQ must enforce the more stringent provision.

**Statutory/Other Authority:** ORS 468.020 & 468A

**Statutes/Other Implemented:** ORS 468A.035 & 468A.135

**History:**

[DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019](#)

[DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019](#)

[DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018](#)

[DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018](#)

[DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018](#)

[DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018](#)

DEQ 7-2017, f. & cert. ef. 7-13-17

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. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000 f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02;

DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2008, f. & cert. ef. 3-20-08; DEQ 11-2008, f. & cert. ef. 8-29-08; DEQ 12-2008, f. & cert. ef. 9-17-08; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 3-2009, f. & cert. ef. 6-30-09; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 2-2010, f. & cert. ef. 3-5-10; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 14-2010, f. & cert. ef. 12-10-10; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 18-2011, f. & cert. ef. 12-21-11; DEQ 1-2012, f. & cert. ef. 5-17-12; DEQ 7-2012, f. & cert. ef. 12-10-12; DEQ 10-2012, f. & cert. ef. 12-11-12; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 11-2013, f. & cert. ef. 11-7-13; DEQ 12-2013, f. & cert. ef. 12-19-13; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 4-2014, f. & cert. ef. 3-31-14; DEQ 5-2014, f. & cert. ef. 3-31-14; DEQ 6-2014, f. & cert. ef. 3-31-14; DEQ 7-2014, f. & cert. ef. 6-26-14; DEQ 6-2015, f. & cert. ef. 4-16-15; DEQ 7-2015, f. & cert. ef. 4-16-15; DEQ 10-2015, f. & cert. ef. 10-16-15; DEQ 14-2015, f. & cert. ef. 12-10-15; DEQ 2-2017, f. & cert. ef. 1-19-17

## DIVISION 236

### EMISSION STANDARDS FOR SPECIFIC INDUSTRIES

#### **340-236-0010,**

#### **Definitions**

#### **Definitions**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "C.F.R." means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, 2018<sup>7</sup> edition.

(2) "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.

(3) "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.

(43) "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.

(54) "Process weight" 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.

(65) "Special control areas" means an area designated in OAR 340-204-0070 and:

- (a) Any incorporated city or within six miles of the city limits of said incorporated city;
- (b) Any area of the state within one mile of any structure or building used for a residence;
- (c) 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 that EQC adopted under OAR 340-200-0040.

[Publications: Publications referenced are available from [the agency DEQ.](#)]

**Statutory/Other Authority:** ORS 468.020 & 468A.025

**Statutes/Other Implemented:** ORS 468A.025

**History:**

DEQ 7-2015, f. & cert. ef. 4-16-15

DEQ 8-2007, f. & cert. ef. 11-8-07

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0105, 340-025-0260

DEQ 18-1998, f. & cert. ef. 10-5-98

DEQ 26-1995, f. & cert. ef. 12-6-95

DEQ 22-1995, f. & cert. ef. 10-6-95

DEQ 4-1993, f. & cert. ef. 3-10-93

DEQ 10-1982, f. & ef. 6-18-82

DEQ 60, f. 12-5-73, ef. 12-25-73

DEQ 4-1993, f. & cert. ef. 3-10-93

DEQ 49, f. 2-9-73, ef. 3-1-73 ~~Stat. Auth.: ORS 468.020 & 468A.025~~

~~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]; [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]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0105, 340-025-0260; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 7-2015, f. & cert. ef. 4-16-15~~

~~Solid Waste Landfills~~



340-236-0500

## Solid Waste Landfills: Emission Standards for Municipal Solid Waste Landfills

### Emission Standards for Municipal Solid Waste Landfills

(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, as adopted under OAR 340-238-0060, except as noted in Section 4 of this rule.

(3) Permitting requirements. Landfills subject to this rule must comply with Oregon Title V Operating Permit program requirements (Title V) as specified in OAR 340 divisions 218 and 220 except as noted in (c):

(a) Existing large landfills must submit a complete Oregon Title V Operating Permit application one year after EPA approves the 11(d) State Plan associated with this rule;

(b) Existing small landfills that are major sources as defined in OAR 340-200-0020 must submit a complete Title V Operating Permit application within one year of becoming a major source;

(c) The exemption from the Oregon Title V Operating Permit program in OAR 340-218-0020 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) must comply with the following:

(A) Submit an Initial Design Capacity Report and an Initial Non-methane Organic Compound Report within 90 days of the effective date of this rule; and

(B) Submit an annual Nonmethane Organic Compound Report until non-methane emissions are 50 Mg/year.

(b) Small landfills listed in subsection (1)(a) through (c) must submit an Initial Design Capacity Report and an Initial Non-methane 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~~" or "~~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~~" or "~~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~~" or "~~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~~" or "~~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~~" or "~~new landfill~~" means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after 5/30/91; and

(h) "~~Small municipal solid waste landfill~~" or "~~small landfill~~" means a municipal solid waste landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.

(1) Designated facilities.

(a) The designated facility to which this rule applies is each existing municipal solid waste landfill for which construction, reconstruction, or modification was commenced on or before July 17, 2014.

(b) Physical or operational changes made to an existing municipal solid waste landfill solely to comply with this rule are not considered a modification or reconstruction and would not subject an existing municipal solid waste landfill to the requirements of a standard of performance for new municipal solid waste landfills.

(2) Compliance times. Planning, awarding of contracts, installing, and starting up municipal solid waste landfill air emission collection and control equipment that is capable of meeting the emission standards in section (7) of this rule must be completed within 30 months after the date a non-methane organic compound emission rate report shows non-methane organic compound emissions equal or exceed 34 megagrams per year (50 megagrams per year for the closed landfill subcategory); or within 30 months after the date of the most recent non-methane organic compound emission rate report that shows non-methane organic compound emissions equal or exceed 34 megagrams per year (50 megagrams per year for the closed landfill subcategory), if Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(a) Sources currently subject to 40 C.F.R. Part 60 subpart WWW that are subject to these rules must continue to comply with the requirements of subpart WWW until they become subject to the more stringent requirements of this rule.

-(3) Startup, shutdown and malfunction. The provisions of this rule apply at all times, including periods of startup, shutdown, or malfunction. During periods of startup, shutdown, and malfunction, the owner or operator must operate the gas collection system such that all collected gases are vented to a control system designed and operated in compliance with 40 C.F.R. 60.33f(c). In the event the collection or control system is not operating, the gas mover system must be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere must be closed within 1 hour of the collection or control system not operating.

(4) Design capacity. The owner or operator of a municipal solid waste landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume must submit an initial design capacity report to DEQ as provided in 40 C.F.R. 60.38f(a). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions must be documented and submitted with the report. Submittal of the initial design capacity report fulfills the requirements of this rule except as follows:

(a) The owner or operator must submit an amended design capacity report providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to meet or exceed 2.5 million megagrams and 2.5 million cubic meters. This increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density. If the

design capacity increase is the result of a modification, as defined in 40 C.F.R. 60.41f, which was commenced after July 17, 2014, then the landfill becomes subject to 40 C.F.R. part 60 subpart XXX instead of this rule. If the design capacity increase is the result of a change in operating practices, density, or some other change that is not a modification as defined in 40 C.F.R. 60.41f, then the landfill remains subject to this rule.

(b) When an increase in the maximum design capacity of a landfill with an initial design capacity less than 2.5 million megagrams or 2.5 million cubic meters results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator must comply with section (5) of this rule.

(5) Emissions. The owner or operator of a municipal solid waste landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must either install a collection and control system as provided in section (7) of this rule or calculate an initial NMOC emission rate for the landfill using the procedures specified in 40 C.F.R. 60.35f(a). The NMOC emission rate must be recalculated annually, except as provided in 40 C.F.R. 60.38f(c)(3).

(a) If the calculated NMOC emission rate is less than 34 megagrams per year, the owner or operator must:

(A) Submit an annual NMOC emission rate report according to 40 C.F.R. 60.38f(c), except as provided in 40 C.F.R. 60.38f(c)(3); and

(B) Recalculate the NMOC emission rate annually using the procedures specified in 40 C.F.R. 60.35f(a) until such time as the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, or the landfill is closed.

(i) If the calculated NMOC emission rate, upon initial calculation or annual recalculation required in paragraph (54)(a)(B) of this rule, is equal to or greater than 34 megagrams per year, the owner or operator must either comply with section (7) of this rule; calculate NMOC emissions using the next higher tier in 40 C.F.R. 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 C.F.R. 60.35f(a)(6).

(ii) If the landfill is permanently closed, a closure report must be submitted to DEQ as provided in 40 C.F.R. 60.38f(f), except for the exemption allowed under section (14) of this rule.

(iii) For the closed landfill subcategory, if the most recently calculated NMOC emission rate is equal to or greater than 50 megagrams per year, the owner or operator must either: submit a gas collection and control system design plan as specified in 40 C.F.R. 60.38f(d), except for exemptions allowed under subsection (13)(c) of this rule, and install a collection and control system as provided in section (7) of this rule; calculate NMOC emissions using the next higher tier in 40 C.F.R. 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 C.F.R. 60.35f(a)(6).

(b) If the calculated NMOC emission rate is equal to or greater than 34 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator must either: submit a collection and control system design plan prepared by a professional engineer to DEQ within 1 year, of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year, as specified in 40 C.F.R. 60.38f(d), except for exemptions allowed in 40 C.F.R. 60.31f(e); calculate NMOC emissions using a higher tier in 40 C.F.R. 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 C.F.R. 60.35f(a)(6).

(c) For the closed landfill subcategory, if the calculated NMOC emission rate is equal to or greater than 50 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator must either: submit a collection and control system design plan as specified in 40 C.F.R. 60.38f(d), except for exemptions allowed in 40 C.F.R. 60.31f(e); calculate NMOC emissions using a higher tier in 40 C.F.R. 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 C.F.R. 60.35f(a)(6).

(6) Removal criteria. The collection and control system may be capped, removed, or decommissioned if the following criteria are met:

(a) The landfill is a closed landfill (as defined in 40 C.F.R. 60.41f). A closure report must be submitted to DEQ as provided in 40 C.F.R. 60.38f(f).

(b) The collection and control system has been in operation a minimum of 15 years or the landfill owner or operator demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flow.

(c) Following the procedures specified in 40 C.F.R. 60.35f(b), the calculated NMOC emission rate at the landfill is less than 34 megagrams per year on three successive test dates. The test dates must be no less than 90 days apart, and no more than 180 days apart.

(d) For the closed landfill subcategory (as defined in 40 C.F.R. 60.41f), following the procedures specified in 40 C.F.R. 60.35f(b), the calculated NMOC emission rate at the landfill is less than 50 megagrams per year on three successive test dates. The test dates must be no less than 90 days apart, and no more than 180 days apart. [For the closed landfill subcategory \(as defined in 40 C.F.R. 60.41f\), the landfill may comply with this requirementsubsection in place of ~~340-236-500~~subsection \(6\)\(c\) in this rule but must still comply with ~~340-236-500~~subsections \(6\)\(a\) and \(b\) in this rule.](#)

(7) Emission standards. Landfills having a design capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume must comply with the requirements in 40 C.F.R. 60.33f(b) (collection system requirement) and 60.33f(c) (control system requirement) [if meeting the following conditions:](#)

(a) The landfill has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition.

(b) The landfill commenced construction, reconstruction, or modification on or before July 17, 2014.

(c) The landfill has an NMOC emission rate greater than or equal to 34 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(d) The landfill is in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(8) Operational standards for collection and control systems. The owner or operator of a municipal solid waste landfill with a gas collection and control system used to comply with the provisions of section (7) of this rule must comply with the operational standards in 40 C.F.R. 60.34f(a) through (f). If monitoring demonstrates that the operational requirements in 40 C.F.R. 60.34f(b), (c) or (d) are not met, corrective action must be taken as specified in 40 C.F.R. 60.36f(a)(3) and (5) or (c). If corrective actions are taken as specified in 40 C.F.R. 60.36f, the monitored exceedance is not a violation of the operational requirements.

(9) Specifications for active collection systems. The owner or operator of a municipal solid waste landfill seeking to comply with [the collection system requirements of 40 C.F.R. 60.33f\(b\)](#) must meet the following:

(a) The active collection wells, horizontal collectors, surface collectors, or other extraction devices siting requirements in 40 C.F.R. 60.40f(a), unless alternative procedures have been approved by the Administrator.

(b) The gas collection devices equipment and procedure requirements in 40 C.F.R. 60.40f(b).

(c) The landfill gas collection header pipe(s) and ~~to a~~ control system requirements in 40 C.F.R. 60.40f(c).

(10) Test methods and procedures. The owner or operator of a municipal solid waste landfill subject to this rule must calculate the landfill non-methane emission rate or conduct a surface emission monitoring demonstration in accordance with 40 C.F.R. 60.35f.

(11) Compliance provisions. The owner or operator of a municipal solid waste landfill subject to this rule must meet the compliance provisions of 40 C.F.R. 60.36f, as applicable.

(12) Monitoring of operations. The owner or operator of a municipal solid waste landfill subject to this rule must meet the monitoring requirements of 40 C.F.R. 60.37f, except as provided in 60.38f(d)(2).

(13) Permitting requirements.

(a) For purposes of obtaining an operating permit under OAR 340 division 218, the owner or operator of a municipal solid waste landfill subject to this rule with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under OAR 340 division 218, unless the landfill is otherwise subject to OAR 340 division 218.

(b) For purposes of submitting a timely application for an operating permit under OAR 340-218-0040(1)(a), the owner or operator of a municipal solid waste landfill subject to this rule with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters on the effective date of EPA approval of this rule, and not otherwise subject to OAR 340 division 218, becomes subject to OAR 340 division 218 90 days after the effective date of EPA approval of this rule, even if the design capacity report is submitted earlier.

(c) When a municipal solid waste landfill subject to this rule is closed, the owner or operator is no longer subject to the requirement to maintain an operating permit under OAR 340 division 218 for the landfill if the landfill is not otherwise subject to the requirements of OAR 340 division 218 and if either of the following conditions are met:

(A) The landfill was never subject to the requirement to install and operate a gas collection and control system under 40 C.F.R. 60.33f; or

(B) The landfill meets the conditions for control system removal specified in section (6) of this rule.

(14) When a municipal solid waste landfill is in the closed landfill subcategory, the owner or operator is not subject to the following reports, provided the owner or operator submitted these reports under 40 C.F.R. part 60 subpart WWW on or before July 17, 2014:

(a) Initial design capacity report specified in 40 C.F.R. 60.38f(a).

(b) Initial or subsequent non-methane organic compound emission rate report specified in 40 C.F.R. 60.38f(c), provided that the most recent non-methane organic compound emission rate report indicated the non-methane organic compound emissions were below 50 Mg/yr.

(c) Collection and control system design plan specified in 40 C.F.R. 60.38f(d).

(d) Closure report specified in 40 C.F.R. 60.38f(f).

(e) Equipment removal report specified in 40 C.F.R. 60.38f(g).

(f) Initial annual report specified in 40 C.F.R. 60.38f(h).

(g) Initial performance test specified in 40 C.F.R. 60.38f(i).

(15) Reporting requirements. The owner or operator of a municipal solid waste landfill subject to this rule must meet the reporting requirements of 40 C.F.R. 60.38f, as applicable.

(16) Recordkeeping guidelines. The owner or operator of a municipal solid waste landfill subject to this rule must meet the recordkeeping requirements of 40 C.F.R. 60.39f, as applicable.

(17) Definitions. Terms used in this rule are as defined in 40 C.F.R. 60.41f.

**Statutory/Other Authority:** ORS 468.020, 468A.025, 468A.040 & 468A.050

**Statutes/Other Implemented:** ORS 468A.025, 468A.040 & 468A.050

**History:**

DEQ 146-2018, minor correction filed 04/11/2018, effective 04/11/2018

DEQ 7-2015, f. & cert. ef. 4-16-15

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0745

DEQ 22-1998, f. & cert. ef. 10-21-98

DEQ 8-1997, f. & cert. ef. 5-6-97

## DIVISION 238

### NEW SOURCE PERFORMANCE STANDARDS

#### **340-238-0040**

##### Definitions

##### **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 340-200-0020, the definition in this rule applies to this division.

(1) "Administrator" means the Administrator of the EPA or authorized representative.

(2) "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

(3) "Capital expenditures" means an expenditure for a physical or operational change to an existing facility that 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) "C.F.R." means the July 1, 201~~87~~<sup>6</sup> edition Code of Federal Regulations unless otherwise identified.

(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 C.F.R. 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.

(6) "Commenced", with respect to the definition of "new source" in section 111(a)(2) of the federal Clean Air Act, means 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) "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.

(8) "Existing facility", with reference to a stationary source, means any apparatus of the type for which a standard is promulgated in 40 C.F.R. Part 60, and the construction or modification of which commenced before the date of proposal by EPA of that standard; or any apparatus that could be altered in such a way as to be of that type.

(9) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(10) "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.

(11) "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 that increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or that 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.

(12) "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).

(13) "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.

(14) "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 C.F.R. Part 60.

(15) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 C.F.R. Part 60.

(16) "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.

(17) "Standard" means a standard of performance proposed or promulgated under 40 C.F.R. Part 60.

(18) "State Plan" means a plan developed for the control of a designated pollutant provided under 40 C.F.R. Part 60.

**Statutory/Other Authority:** ORS 468.020

**Statutes/Other Implemented:** ORS 468A.025

**History:**

DEQ 6-2017, f. & cert. ef. 7-13-17

DEQ 8-2015, f. & cert. ef. 4-17-15

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 13-2006, f. & cert. ef. 12-22-06

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 4-2003, f. & cert. ef. 2-06-03

DEQ 22-2000, f. & cert. ef. 12-18-00

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510

DEQ 22-1998, f. & cert. ef. 10-21-98

DEQ 8-1997, f. & cert. ef. 5-6-97

DEQ 27-1996, f. & cert. ef. 12-11-96

DEQ 22-1995, f. & cert. ef. 10-6-95

DEQ 17-1993, f. & cert. ef. 11-4-93

DEQ 4-1993, f. & cert. ef. 3-10-93

DEQ 24-1989, f. & cert. ef. 10-26-89  
DEQ 17-1987, f. & ef. 8-24-87  
DEQ 19-1986, f. & ef. 11-7-86  
DEQ 15-1985, f. & ef. 10-21-85  
DEQ 16-1984, f. & ef. 8-21-84  
DEQ 17-1983, f. & ef. 10-19-83  
DEQ 22-1982, f. & ef. 10-21-82  
DEQ 97, f. 9-2-75, ef. 9-25-75

**340-238-0060**

### **Federal Regulations Adopted by Reference**

(1) Except as provided in section (2) of this rule, 40 C.F.R. Part 60 Subparts A, D through EE, GG, HH, KK through NN, ~~PP, QQ, TT~~ through XX, BBB, DDD, FFF through LLL, NNN through ~~XXXWWW~~, AAAA, CCCC, EEEE, KKKK, LLLL, OOOO, and TTTT are by this reference adopted and incorporated herein, 40 C.F.R. Part 60 Subpart OOO is by this reference adopted and incorporated herein for major sources only, 40 C.F.R. Part 60 Subpart IIII and JJJJ are by this reference adopted and incorporated herein only for sources required to have a Title V or ACDP permit and excluding the requirements for engine manufacturers.

(2) Where "Administrator" or "EPA" appears in 40 C.F.R. Part 60, "DEQ" is substituted, except in any section of 40 C.F.R. Part 60 for which a federal rule or delegation specifically indicates that authority must not be delegated to the state.

(3) 40 C.F.R. Part 60 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart D — Fossil-fuel-fired steam generators for which construction is commenced after August 17, 1971;

(c) Subpart Da — Electric utility steam generating units for which construction is commenced after September 18, 1978;

(d) Subpart Db — Industrial-commercial-institutional steam generating units;

(e) Subpart Dc — Small industrial-commercial-institutional steam generating units;

(f) Subpart E — Incinerators;

(g) Subpart Ea — Municipal waste combustors for which construction is commenced after December 20, 1989 and on or before September 20, 1994;

(h) Subpart Eb — Municipal waste combustors for which construction is commenced after September 20, 1994;

(i) Subpart Ec — Hospital/Medical/Infectious waste incinerators that commenced construction after June 20, 1996, or for which modification is commenced after March 16, 1998;

(j) Subpart F — Portland cement plants;

(k) Subpart G — Nitric acid plants;

(l) Subpart Ga — Nitric acid plants for which construction, reconstruction, or modification commenced after October 14, 2011;

(m) Subpart H — Sulfuric acid plants;

(n) Subpart I — Hot mix asphalt facilities;

(o) Subpart J — Petroleum refineries;

(p) Subpart K — Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after June 11, 1973, and before May 19, 1978;

(q) Subpart Ka — Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after May 18, 1978, and before July 23, 1984;

(r) Subpart Kb — Volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984;

(s) Subpart L — Secondary lead smelters;

(t) Subpart M — Secondary brass and bronze production plants;

(u) Subpart N — Primary emissions from basic oxygen process furnaces for which construction is commenced after June 11, 1973;

(v) Subpart Na — Secondary emissions from basic oxygen process steelmaking facilities for which construction is commenced after January 20, 1983;

(w) Subpart O — Sewage treatment plants;

(x) Subpart P — Primary copper smelters;

(y) Subpart Q — Primary Zinc smelters;

- (z) Subpart R — Primary lead smelters;
- (aa) Subpart S — Primary aluminum reduction plants;
- (bb) Subpart T — Phosphate fertilizer industry: wet-process phosphoric acid plants;
- (cc) Subpart U — Phosphate fertilizer industry: superphosphoric acid plants;
- (dd) Subpart V — Phosphate fertilizer industry: diammonium phosphate plants;
- (ee) Subpart W — Phosphate fertilizer industry: triple superphosphate plants;
- (ff) Subpart X — Phosphate fertilizer industry: granular triple superphosphate storage facilities;
- (gg) Subpart Y — Coal preparation plants;
- (hh) Subpart Z — Ferroalloy production facilities;
- (ii) Subpart AA — Steel plants: electric arc furnaces constructed after October 21, 1974 and on or before August 17, 1983;
- (jj) Subpart AAa — Steel plants: electric arc furnaces and argon-oxygen decarburization vessels constructed after August 7, 1983;
- (kk) Subpart BB — Kraft pulp mills;
- (ll) Subpart BBa — Kraft pulp mills affected sources for which construction, reconstruction, or modification commences after May 23, 2013;
- (mm) Subpart CC — Glass manufacturing plants;
- (nn) Subpart DD — Grain elevators.
- (oo) Subpart EE — Surface coating of metal furniture;
- (pp) Subpart GG — Stationary gas turbines;
- (qq) Subpart HH — Lime manufacturing plants;
- (rr) Subpart KK — Lead-acid battery manufacturing plants;
- (ss) Subpart LL — Metallic mineral processing plants;
- (tt) Subpart MM — Automobile and light-duty truck surface coating operations;

- (uu) Subpart NN — Phosphate rock plants;
- (vv) Subpart PP — Ammonium sulfate manufacture;
- (ww) Subpart QQ — Graphic arts industry: publication rotogravure printing;
- (xx) Subpart RR — pressure sensitive tape and label surface coating operations;
- (yy) Subpart SS — Industrial surface coating: large appliances;
- (zz) Subpart TT — Metal coil surface coating;
- (aaa) Subpart UU — Asphalt processing and asphalt roofing manufacture;
- (bbb) Subpart VV — Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;
- (ccc) Subpart VVa — Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;
- (ddd) Subpart WW — Beverage can surface coating industry;
- (eee) Subpart XX — Bulk gasoline terminals;
- (fff) Subpart BBB — Rubber tire manufacturing industry;
- (ggg) Subpart DDD — Volatile organic compound (VOC) emissions for the polymer manufacture industry;
- (hhh) Subpart FFF — Flexible vinyl and urethane coating and printing;
- (iii) Subpart GGG — Equipment leaks of VOC in petroleum refineries;
- (jjj) Subpart GGGa — Equipment leaks of VOC in petroleum refineries;
- (kkk) Subpart HHH — Synthetic fiber production facilities;
- (lll) Subpart III — Volatile organic compound (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) air oxidation unit processes;
- (mmm) Subpart JJJ — Petroleum dry cleaners;
- (nnn) Subpart KKK — Equipment leaks of VOC from onshore natural gas processing plants;
- (ooo) Subpart LLL — Onshore natural gas processing; SO<sub>2</sub> emissions;

(ppp) Subpart NNN — Volatile organic compound (VOC) emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations;

(qqq) Subpart OOO — Nonmetallic mineral processing plants (adopted by reference for major sources only);

(rrr) Subpart PPP — Wool fiberglass insulation manufacturing plants;

(sss) Subpart QQQ — VOC emissions from petroleum refinery wastewater systems;

(ttt) Subpart RRR — Volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes;

(uuu) Subpart SSS — Magnetic tape coating facilities;

(vvv) Subpart TTT — Industrial surface coating: surface coating of plastic parts for business machines;

(www) Subpart UUU — Calciners and dryers in mineral industries;

(xxx) Subpart VVV — Polymeric coating of supporting substrates facilities;

(yyy) Subpart WWW — Municipal solid waste landfills, as clarified by OAR 340-238-0100;

(zzz) Subpart XXX – Municipal solid waste landfills that commenced construction, reconstruction, or modification after July 17, 2014;

(~~aaaa~~~~zzz~~) Subpart AAAA — Small municipal waste combustion units;

(~~bbbb~~~~aaaa~~) Subpart CCCC — Commercial and industrial solid waste incineration units;

(~~cccc~~~~bbbb~~) Subpart EEEE — Other solid waste incineration units;

(~~dddd~~~~eeee~~) Subpart IIII — Stationary compression ignition internal combustion engines (adopted only for sources required to have a Title V or ACDP permit), excluding the requirements for engine manufacturers (40 C.F.R. 60.4201 through 60.4203, 60.4210, 60.4215, and 60.4216);

(~~eeee~~~~dddd~~) Subpart JJJJ — Stationary spark ignition internal combustion engines (adopted only for sources required to have a Title V or ACDP permit), excluding the requirements for engine manufacturers (40 C.F.R. 60.4231 through 60.4232, 60.4238 through 60.4242, and 60.4247);

(~~ffff~~~~eeee~~) Subpart KKKK — Stationary combustion turbines;

(~~ggggffff~~) Subpart LLLL — Sewage sludge incineration units;

(~~hhhhgggg~~) Subpart OOOO — Crude oil and natural gas production, transmission and distribution.

(~~iiiihhhh~~) Subpart OOOOa — Crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after September 18, 2015;

(~~jjjj###~~) Subpart TTTT — Greenhouse gas emissions for electric generating units.

**Statutory/Other Authority:** ORS 468.020

**Statutes/Other Implemented:** ORS 468A.025

**History:**

DEQ 6-2017, f. & cert. ef. 7-13-17

DEQ 8-2015, f. & cert. ef. 4-17-15

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 13-2006, f. & cert. ef. 12-22-06

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 4-2003, f. & cert. ef. 2-06-03

DEQ 22-2000, f. & cert. ef. 12-18-00

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0535

DEQ 22-1998, f. & cert. ef. 10-21-98

DEQ 8-1997, f. & cert. ef. 5-6-97

DEQ 27-1996, f. & cert. ef. 12-11-96

DEQ 22-1995, f. & cert. ef. 10-6-95

DEQ 17-1993, f. & cert. ef. 11-4-93

DEQ 24-1989, f. & cert. ef. 10-26-89

DEQ 17-1987, f. & ef. 8-24-87

DEQ 19-1986, f. & ef. 11-7-86

DEQ 15-1985, f. & ef. 10-21-85

DEQ 16-1984, f. & ef. 8-21-84

DEQ 17-1983, f. & ef. 10-19-83

DEQ 22-1982, f. & ef. 10-21-82

Sections (1) thru (12) of this rule renumbered to 340-025-0550 thru 340-025-0605

DEQ 16-1981, f. & ef. 5-6-81

DEQ 97, f. 9-2-75, ef. 9-25-75

## DIVISION 244

### OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM

#### ~~General Provisions for Stationary Sources~~



## 340-244-0030

### General Provisions for Stationary Sources: Definitions

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

(1) "Affected source" is as defined in 40 C.F.R. 63.2.

(2) "Annual throughput" means the amount of gasoline transferred into a gasoline dispensing facility during 12 consecutive months.

(3) "Area Source" means any stationary source which has the potential to emit hazardous air pollutants but is not a major source of hazardous air pollutants.

(4) "C.F.R." means the July 1, 201~~87~~<sup>6</sup> edition Code of Federal Regulations unless otherwise identified.

(5) "Construct a major source" means to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP, or to fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (a) through (f) of this definition:

(a) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of 40 C.F.R. Part 63, Subpart B will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(b) DEQ has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 C.F.R. Part 51 or 52, toxics-best available control technology (T-BACT), or MACT based on State air toxic rules for the category of pollutants which includes those HAP to be emitted by the process or production unit; or DEQ determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or State air toxic rule MACT determination).

(c) DEQ determines that the percent control efficiency for emission of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent

control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(d) DEQ has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (a), (b), and (c) of this definition apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or State air toxic rule MACT determination;

(e) If any commenter has asserted that a prior LAER, BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, DEQ has determined that the level of control required by that prior determination remains adequate; and

(f) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by DEQ are predicated will be construed by DEQ as applicable requirements under section 504(a) and either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.

(6) "Dual-point vapor balance system" means a type of vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

(7) "Emissions Limitation" and "Emissions Standard" mean a requirement adopted by DEQ or Regional Agency, or proposed or promulgated by the Administrator of the EPA, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(8) "Equipment leaks" means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems in hazardous air pollutant service.

(9) "Existing Source" means any source, the construction of which commenced prior to proposal of an applicable standard under sections 112 or 129 of the FCAA.

(10) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(11) "Gasoline" means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals (4.0 psi) or greater, which is used as a fuel for internal combustion engines.

(12) "Gasoline cargo tank" means a delivery tank truck or railcar which is loading or unloading gasoline, or which has loaded or unloaded gasoline on the immediately previous load.

(13) "Gasoline dispensing facility (GDF) " means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline fueled engines and equipment. In Clackamas, Multnomah and Washington Counties, the Medford-Ashland Air Quality Maintenance Area, and the Salem-Keizer Area Transportation Study area, "gasoline dispensing facility" includes any stationary facility which dispenses gasoline into the fuel tank of an airplane.

(14) "Hazardous Air Pollutant" (HAP) means an air pollutant listed by the EPA under section 112(b) of the FCAA or determined by the Commission to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.

(15) "Major Source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The EPA may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

(16) "Maximum Achievable Control Technology (MACT)" means an emission standard applicable to major sources of hazardous air pollutants that requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.

(17) "Monthly throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at each GDF during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the current day, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the previous 364 days, and then dividing that sum by 12.

(18) "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(19) "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 of this title or section 7521 of this title.

(20) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, and that is not a motor vehicle or a vehicle used solely for competition.

(21) "New Source" means a stationary source, the construction of which is commenced after proposal of a federal MACT or January 3, 1993 of this Division, whichever is earlier.

(22) "Potential to Emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, ~~shall~~must be treated as part of its design if the limitation is enforceable by the EPA. This section does not alter or affect the use of this section for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.

(23) "Reconstruct a Major Source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever: the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and; it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under 40 C.F.R. Part 63 Subpart B.

(24) "Regulated Air Pollutant" as used in this Division means:

(a) Any pollutant listed under OAR 340-244-0040; or

(b) Any pollutant that is subject to a standard promulgated under Section 129 of the Act.

(25) "Section 112(n)" means that subsection of the FCAA that includes requirements for the EPA to conduct studies on the hazards to public health prior to developing emissions standards for specified categories of hazardous air pollutant emission sources.

(26) "Section 112(r)" means that subsection of the FCAA that includes requirements for the EPA promulgate regulations for the prevention, detection and correction of accidental releases.

(27) "Solid Waste Incineration Unit" as used in this Division ~~shall have~~has the same meaning as given in Section 129(g) of the FCAA.

(28) "Stationary Source", as used in OAR 340 division 244, means any building, structure, facility, or installation which emits or may emit any regulated air pollutant;

(29) "Submerged filling" means the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than the applicable distance specified in OAR 340-244-0240(3) from the bottom of the tank. Bottom filling of gasoline storage tanks is included in this definition.

(30) "Topping off" means, in the absence of equipment malfunction, continuing to fill a gasoline tank after the nozzle has clicked off.

(31) "Vapor balance system" means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.

(32) "Vapor-tight" means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can be determined by checking to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the Lower Explosive Limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the source.

(33) "Vapor-tight gasoline cargo tank" means a gasoline cargo tank which has demonstrated within the 12 preceding months that it meets the annual certification test requirements in 40 C.F.R. 63.11092(f).

[Publications: Publications referenced are available from [the agency DEQ.](#)]

**Statutory/Other Authority:** ORS 468.020 & 468A.025

**Statutes/Other Implemented:** ORS 468A.040

**History:**

DEQ 6-2017, f. & cert. ef. 7-13-17

DEQ 8-2015, f. & cert. ef. 4-17-15

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 13-2006, f. & cert. ef. 12-22-06

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0120

DEQ 18-1998, f. & cert. ef. 10-5-98

DEQ 20-1997, f. & cert. ef. 9-25-97

DEQ 26-1996, f. & cert. ef. 11-26-96

DEQ 22-1995, f. & cert. ef. 10-6-95

DEQ 24-1994, f. & cert. ef. 10-28-94

DEQ 18-1993, f. & cert. ef. 11-4-93

DEQ 13-1993, f. & cert. ef. 9-24-93

**340-244-0220**

Emission Standards: Federal Regulations Adopted by Reference

(1) Except as provided in sections (2) and (3) of this rule, 40 C.F.R. Part 61, Subparts A, C through F, J, L, N through P, V, Y, BB, and FF and 40 C.F.R. Part 63, Subparts A, F through J, L through O, Q through U, W through Y, AA through EE, GG through YY, CCC through EEE, GGG through JJJ, LLL through RRR, TTT through VVV, XXX, AAAA, CCCC through KKKK, MMMM through YYYY, AAAAA through NNNNN, PPPPP through

UUUUU, WWWWW, YYYYY, ZZZZZ, BBBBB, DDDDD through ~~FFFFFF~~HHHHHH, LLLLLL through TTTTTT, VVVVVV through EEEEEEE, and HHHHHHH are adopted by reference and incorporated herein, and 40 C.F.R. Part 63, Subparts ZZZZ and JJJJJ are by this reference adopted and incorporated herein only for sources required to have a Title V or ACDP permit.

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

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

(4) 40 C.F.R. Part 61 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart C — Beryllium;

(c) Subpart D — Beryllium Rocket Motor Firing;

(d) Subpart E — Mercury;

(e) Subpart F — Vinyl Chloride;

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

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

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

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

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

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

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

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

(n) Subpart FF — Benzene Waste Operations.

(5) 40 C.F.R. Part 63 Subparts adopted by this rule are titled as follows:

- (a) Subpart A — General Provisions;
- (b) Subpart F — SOCFI;
- (c) Subpart G — SOCFI — Process Vents, Storage Vessels, Transfer Operations, and Wastewater;
- (d) Subpart H — SOCFI — Equipment Leaks;
- (e) Subpart I — Certain Processes Subject to the Negotiated Regulation for Equipment Leaks;
- (f) Subpart J — Polyvinyl Chloride and Copolymers Production;
- (g) Subpart L — Coke Oven Batteries;
- (h) Subpart M — Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;
- (i) Subpart N — Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;
- (j) Subpart O — Ethylene Oxide Emissions Standards for Sterilization Facilities;
- (k) Subpart Q — Industrial Process Cooling Towers;
- (l) Subpart R — Gasoline Distribution (Bulk Gasoline Terminals and Pipeline Breakout Stations);
- (m) Subpart S — Pulp and Paper Industry;
- (n) Subpart T — Halogenated Solvent Cleaning;
- (o) Subpart U — Group I Polymers and Resins;
- (p) Subpart W — Epoxy Resins and Non-Nylon Polyamides Production;
- (q) Subpart X — Secondary Lead Smelting;
- (r) Subpart Y — Marine Tank Vessel Loading Operations;
- (s) Subpart AA — Phosphoric Acid Manufacturing Plants;
- (t) Subpart BB — Phosphate Fertilizer Production Plants;
- (u) Subpart CC — Petroleum Refineries;

- (v) Subpart DD — Off-Site Waste and Recovery Operations;
- (w) Subpart EE — Magnetic Tape Manufacturing Operations;
- (x) Subpart GG — Aerospace Manufacturing and Rework Facilities;
- (y) Subpart HH — Oil and Natural Gas Production Facilities;
- (z) Subpart II — Shipbuilding and Ship Repair (Surface Coating);
- (aa) Subpart JJ — Wood Furniture Manufacturing Operations;
- (bb) Subpart KK — Printing and Publishing Industry;
- (cc) Subpart LL — Primary Aluminum Reduction Plants;
- (dd) Subpart MM — Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-Chemical Pulp Mills;
- (ee) Subpart NN — Area Sources: Wool Fiberglass Manufacturing;
- (ff) Subpart OO — Tanks — Level 1;
- (gg) Subpart PP — Containers;
- (hh) Subpart QQ — Surface Impoundments;
- (ii) Subpart RR — Individual Drain Systems;
- (jj) Subpart SS — Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process;
- (kk) Subpart TT — Equipment Leaks — Control Level 1;
- (ll) Subpart UU — Equipment Leaks — Control Level 2;
- (mm) Subpart VV — Oil-Water Separators and Organic-Water Separators;
- (nn) Subpart WW — Storage Vessels (Tanks) — Control Level 2;
- (oo) Subpart XX — Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations;
- (pp) Subpart YY — Generic Maximum Achievable Control Technology Standards;



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

(rr) Subpart DDD — Mineral Wool Production;

(ss) Subpart EEE — Hazardous Waste Combustors;

(tt) Subpart GGG — Pharmaceuticals Production;

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

(vv) Subpart III — Flexible Polyurethane Foam Production;

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

(xx) Subpart LLL — Portland Cement Manufacturing Industry;

(yy) Subpart MMM — Pesticide Active Ingredient Production;

(zz) Subpart NNN — Wool Fiberglass Manufacturing;

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

(bbb) Subpart PPP — Polyether Polyols Production;

(ccc) Subpart QQQ — Primary Copper Smelting;

(ddd) Subpart RRR — Secondary Aluminum Production;

(eee) Subpart TTT — Primary Lead Smelting;

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

(ggg) Subpart VVV — Publicly Owned Treatment Works;

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

(iii) Subpart AAAA — Municipal Solid Waste Landfills;

(jjj) Subpart CCCC — Manufacturing of Nutritional Yeast;

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

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

(mmm) Subpart FFFF — Miscellaneous Organic Chemical Manufacturing;

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

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

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

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

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

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

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

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

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

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

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

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

(zzz) Subpart TTTT — Leather Finishing Operations;

(aaa) Subpart UUUU — Cellulose Production Manufacturing;

(bbb) Subpart VVVV — Boat Manufacturing;

(ccc) Subpart WWWW — Reinforced Plastics Composites Production;

(ddd) Subpart XXXX — Rubber Tire Manufacturing;

(eee) Subpart YYYY — Stationary Combustion Turbines;

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

(ggg) Subpart AAAAA — Lime Manufacturing;

(hhh) Subpart BBBB — Semiconductor Manufacturing;

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

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

(kkkk) Subpart EEEEE — Iron and Steel Foundries;

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

(mmmm) Subpart GGGGG — Site Remediation;

(nnnn) Subpart HHHHH — Misc. Coating Manufacturing;

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

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

(qqqq) Subpart KKKKK — Clay Ceramics Manufacturing;

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

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

(tttt) Subpart NNNNN — Hydrochloric Acid Production;

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

(vvvv) Subpart QQQQQ — Friction Materials Manufacturing Facilities;

(wwww) Subpart RRRRR — Taconite Iron Ore Processing;

(xxxx) Subpart SSSSS — Refractory Products Manufacturing;

(yyyy) Subpart TTTTT — Primary Magnesium Refining;

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

(aaaa) Subpart WWWW — Area Sources: Hospital Ethylene Oxide Sterilization;

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

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

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

(eeee) Subpart DDDDD — Area Sources: Polyvinyl Chloride and Copolymers Production;

- (ffff) Subpart EEEEEEE — Area Sources: Primary Copper Smelting;
- (ggggg) Subpart FFFFFFFF — Area Sources: Secondary Copper Smelting;
- (hhhhh) Subpart GGGGGG — Area Sources: Primary Nonferrous Metals — Zinc, Cadmium, and Beryllium;
- (iiii) Subpart HHHHHH — Area Sources: Paint Stripping and Miscellaneous Surface Coating Operations;
- (jjjj) Subpart JJJJJ — Area Sources: Industrial, Commercial, and Institutional Boilers (adopted only for sources required to have a Title V or ACDP permit);
- (kkkkk) Subpart LLLLLL — Area Sources: Acrylic and Modacrylic Fibers Production;
- (llll) Subpart MMMMMM — Area Sources: Carbon Black Production;
- (mmmmm) Subpart NNNNNN — Area Sources: Chemical Manufacturing: Chromium Compounds;
- (nnnnn) Subpart OOOOOO — Area Sources: Flexible Polyurethane Foam Production;
- (ooooo) Subpart PPPPPP — Area Sources: Lead Acid Battery Manufacturing;
- (ppppp) Subpart QQQQQQ — Area Sources: Wood Preserving;
- (qqqqq) Subpart RRRRRR — Area Sources: Clay Ceramics Manufacturing;
- (rrrrr) Subpart SSSSSS — Area Sources: Glass Manufacturing;
- (sssss) Subpart TTTTTT — Area Sources: Secondary Nonferrous Metals Processing;
- (ttttt) Subpart VVVVVV — Area Sources: Chemical Manufacturing;
- (uuuuu) Subpart WWWWWW — Area Source: Plating and Polishing Operations;
- (vvvvv) Subpart XXXXXX — Area Source: Nine Metal Fabrication and Finishing Source Categories;
- (wwwww) Subpart YYYYYY — Area Sources: Ferroalloys Production Facilities;
- (xxxxx) Subpart ZZZZZZ — Area Sources: Aluminum, Copper, and Other Nonferrous Foundries;
- (yyyyy) Subpart AAAAAAA — Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing;

- (zzzzz) Subpart BBBBBBBB — Area Sources: Chemical Preparations Industry;
- (aaaaa) Subpart CCCCCC — Area Sources: Paints and Allied Products Manufacturing;
- (bbbbb) Subpart DDDDDDD — Area Sources: Prepared Feeds Manufacturing;
- (ccccc) Subpart EEEEEEE — Area Sources: Gold Mine Ore Processing and Production;
- (dddddd) Subpart HHHHHHH — Polyvinyl Chloride and Copolymers Production.

**Statutory/Other Authority:** ORS 468.020

**Statutes/Other Implemented:** ORS 468A.025

**History:**

DEQ 6-2017, f. & cert. ef. 7-13-17

DEQ 8-2015, f. & cert. ef. 4-17-15

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 4-2003, f. & cert. ef. 2-06-03

DEQ 15-2001, f. & cert. ef. 12-26-01

DEQ 11-2000, f. & cert. ef. 7-27-00

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0510, 340-032-5520

DEQ 32-1994, f. & cert. ef. 12-22-94

DEQ 18-1993, f. & cert. ef. 11-4-93

DEQ 18-1998, f. & cert. ef. 10-5-98

DEQ 28-1996, f. & cert. ef. 12-19-96

DEQ 16-1995, f. & cert. ef. 6-21-95