# Proposed Rules: Division 246 and 247

**Cleaner Air Oregon and Air Toxics Alignment and Updates 2021**
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DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

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# Division 246 Draft Rules

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Key to Identifying Changed Text:
~~Deleted Text~~
New/inserted text

**Division 246**
**OREGON STATE ~~AIR~~ TOXIC~~S~~ AIR CONTAMINANT PROGRAM**

**340-246-0010**
**Policy and Purpose**

The purpose of Oregon's state ~~air toxics p~~Toxic Air Contaminant Program is to address threats to public health and the environment from toxic air pollutants that remain after implementing the state delegated technology-based strategies of the federal Hazardous Air Pollutants~~air toxics~~ P~~p~~rogram in OAR 340-244-0010 through 340-244-0252, Cleaner Air Oregon in OAR 340-245-0005 through 340-245-8050, and OAR 340-244-9000 through 340-244-9090. ~~Oregon's program meets the goals of the federal Urban Air Toxics Strategy by using a community-based effort that focuses on geographic areas of concern.~~ It also addresses cases of elevated health risks from ~~air~~ toxic air contaminant~~s~~ emissions at stationary sources and source categories of ~~air~~ toxic air contaminant~~s~~ emissions. In the future, it is also intended to address human exposures to toxic air contaminant emissions from stationary sources that are not addressed by other regulatory programs or the Geographic Program through a Safety Net Program. It is expected that the Safety Net Program will apply only rarely.

**Safety Net Purpose**
Added modified purpose statement from original Safety Net rules under OAR 340-246-0190(1)

**Statutory/Other Authority:** ORS 468.020, 468.035, 468A.010(1), 468A.015, 468A.025 & ~~ORS~~ 468A.1~~0~~35
**Statutes/Other Implemented:** ORS 468.035, 468A.010(1), 468A.015, ~~&~~ 468A.025 & 468A.135
**History:**
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 187-2018, amend filed 05/14/2018, effective 05/14/2018
DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0030**
**Definitions**

The definitions in OAR 340-200-0020, 340-218-0030, 340-244-~~0030~~ 0030, OAR 340-247-0020 and this rule apply to this division. If the same term is defined in this division and elsewhere, the definition in this division applies.

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

(2) "Ambient benchmark concentration" means the concentration of a~~n~~ ~~air toxic~~toxic air contaminant in outdoor air that would result in an excess lifetime cancer risk level of one

**ABC Definition**
ABC definition updated to align with TRV values in Division 247.

in a million (1 x 10-6) or a non-cancer hazard quotient of one and is numerically equivalent to the "Toxicity Reference Value" as defined under OAR 340 247-0020.

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

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

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

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

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

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

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

(10) "Source" means:

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

(b) Any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all pollutant emitting activities that belong to a single major industrial group (i.e., that have the same two-digit code) as described in the **Standard Industrial Classification Manual**, (U.S. Office of Management and Budget, 1987) or that support the major industrial group.

(11) "Source Category" means:

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

(b) All the pollutant emitting activities that belong to the same industrial grouping (i.e., that have the same two-digit code) as described in the **Standard Industrial Classification Manual**, (U.S. Office of Management and Budget, 1987).

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

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

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

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

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

**Statutory/Other Authority:** ORS 468.020, 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135
**Statutes/Other Implemented:** ORS 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135~~**Statutory/Other Authority:** ORS 468.035, 468A.010(1) & 468A.015~~
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**340-246-0050**
**Pollution Prevention**

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

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

(2) Capture and reuse air contaminants;

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

(4) Otherwise control ~~air toxic~~toxic air contaminant~~s~~ emissions.

**Statutory/Other Authority:** ORS 468.020, 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135
**Statutes/Other Implemented:** ORS 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135~~**Statutory/Other Authority:** ORS 468.035, 468A.010(1) & 468A.015~~
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DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0070**
**Air Toxics Science Advisory Committee**

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

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

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

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

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

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

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

(a) Toxicology;

(b) Environmental Science or Environmental Engineering;

(c) Risk Assessment;

(d) Epidemiology/Biostatistics;

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

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

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

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

~~(5) Operation.~~

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

~~(b) The ATSAC will meet as necessary.~~

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

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

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

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

~~**Statutory/Other Authority:** ORS 468.035, 468A.010(1) & 468A.015~~
~~**Statutes/Other Implemented:** ORS 468A.015 & 468A.025~~
~~**History:**~~
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~~DEQ 15-2003, f. & cert. ef. 11-3-03~~

**340-246-0090**
**Ambient Benchmark Concentrations~~s~~ for ~~Air~~ Toxic Air Contaminants~~s~~**

(1) Purpose. Ambient benchmark concentrations are concentrations of ~~air toxic~~toxic air contaminants that serve as goals in the Oregon ~~Air~~ Toxic Air Contaminants Program. They are based on human health risk and hazard levels considering sensitive populations. Ambient benchmark concentrations are not regulatory standards, but reference values by which ~~air toxic~~toxic air contaminant~~s~~ problems can be identified, addressed and evaluated and are numerically equivalent to the "Toxicity Reference Value" as defined under OAR 340 247-0020. DEQ will use ambient benchmark concentrations as indicated in these rules, to implement the Geographic and~~,~~ Source Category~~, and Safety Net~~ Programs. Ambient benchmark concentrations set by the procedures described in this rule apply throughout Oregon, including that area within the jurisdiction of the Lane Regional Air Protection Agency. ~~In OAR 340-245-0300, ambient benchmarks may also be considered in the risk-based concentration hierarchy used to determine risk-based concentrations for purposes of Cleaner Air Oregon regulations in OAR 340-245-0005 through 240-245-8050. Ambient benchmarks are subject to public notice and comment before adoption by the Environmental Quality Commission as administrative rules.~~

~~(2) Establishing Ambient Benchmarks~~

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

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

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

~~(A) Toxicity or potency of a pollutant;~~

~~(B) Exposure and number of people at risk;~~

~~(C) Impact on sensitive human populations;~~

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

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

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

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

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

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

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

**Rules for Establishing Ambient Benchmarks**

Removed as part of the alignment.

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

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

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

~~(b) The ambient benchmark for acrolein (107-02-8) is 0.35 micrograms per cubic meter.~~

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

~~(d) The ambient benchmark for ammonia (7664-41-7) is 500 micrograms per cubic meter.~~

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

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

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

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

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

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

~~(k) The ambient benchmark for carbon tetrachloride (56-23-5) is 0.2 micrograms per cubic meter.~~

~~(l) The ambient benchmark for chlorine (7782-50-5) is 0.1 micrograms per cubic meter.~~

~~(m) The ambient benchmark for chloroform (67-66-3) is 300 micrograms per cubic meter.~~

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

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

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

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

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

**Rules for Setting Ambient Benchmarks**

Removed ABCs are proposed as equivalent to TRVs, as listed in new Division 247.

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

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

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

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

~~(w) The ambient benchmark for ethylene oxide (75-21-8) is 0.0003 micrograms per cubic meter.~~

~~(x) The ambient benchmark for formaldehyde (50-00-0) is 0.2 micrograms per cubic meter.~~

~~(y) The ambient benchmark for n-hexane (110-54-3) is 700 micrograms per cubic meter.~~

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

~~(aa) The ambient benchmark for hydrogen cyanide (74-90-8) is 0.8 micrograms per cubic meter.~~

~~(bb) The ambient benchmark for fluoride anion (7664-39-3) is 13 micrograms per cubic meter.~~

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

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

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

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

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

~~(hh) The ambient benchmark for methyl chloroform (71-55-6) is 5,000 micrograms per cubic meter.~~

~~(ii) The ambient benchmark for methylene chloride (75-09-2) is 100 micrograms per cubic meter.~~

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

~~(kk) The benchmark for soluble nickel compounds (various) is 0.01 micrograms per cubic meter, where soluble nickel compounds include nickel acetate (373-20-4), nickel chloride (7718-54-9), nickel carbonate (3333-39-3), nickel carbonyl (13463-39-3), nickel hydroxide (12054-48-7), nickelocene 1271-28-9), nickel sulfate 7786-81-4), nickel sulfate hexahydrate 10101-97-0), nickel nitrate hexahydrate (13478-00-7), and nickel carbonate hydroxide (12607-70-4).~~

~~(ll) The ambient benchmark for insoluble nickel compounds (various) is 0.004 micrograms per cubic meter, where insoluble nickel compounds include nickel subsulfide (12035-72-2), nickel oxide (1313-99-1), nickel sulfide (11113-75-0), and nickel metal (7440-02-0).~~

~~(mm) The ambient benchmark for phosphine (7803-51-2) is 0.8 micrograms per cubic meter.~~

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

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

~~(pp) The ambient benchmark for total polycyclic aromatic hydrocarbons (none) is 0.002 micrograms per cubic meter, where total polycyclic aromatic hydrocarbons are the sum of the toxicity equivalency factor (with respect to benzo(a)pyrene (50-32-8)) adjusted concentrations for all of the following individual 26 polycyclic aromatic hydrocarbons: 5-methylchrysene (3697-24-3); 6-nitrochrysene (7496-02-8); acenaphthene (83-32-9); acenaphthylene (208-96-8); anthanthrene (191-26-4); anthracene (120-12-7); benz(a)anthracene (56-55-3); benzo(a)pyrene (50-32-8); benzo(b)fluoranthene (205-99-6); benzo(c)fluoranthene (243-17-4); benzo(e)pyrene (192-97-2); benzo(g,h,i)perylene (191-24-2); benzo(j)fluoranthene ( 205-82-3); benzo(k)fluoranthene (207-08-9); chrysene (218-01-9); cyclopenta(c,d)pyrene (27208-37-3); dibenz(a,h)anthracene (226-36-8); dibenzo(a,e)pyrene (192-65-4); dibenzo(a,h)pyrene (189-64-0); dibenzo(a,i)pyrene (189-55-9); dibenzo(a,l)pyrene (191-30-0); fluoranthene (206-44-0); fluorene (86-73-7); indeno(1,2,3-c,d)pyrene (193-39-5); phenanthrene (85-01-8); and pyrene (129-00-0).~~

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

~~(rr) The ambient benchmark for toluene (108-88-3) is 5,000 micrograms per cubic meter.~~

~~(ss) The ambient benchmark for 2,4- & 2,6 toluene diisocyanate, mixture (26471-62-5) is 0.02 micrograms per cubic meter.~~

~~(tt) The ambient benchmark for trichloroethylene (79-01-6) is 0.2 micrograms per cubic meter.~~

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

~~(vv) The ambient benchmark for white phosphorus (7723-14-0) is 9 micrograms per cubic meter.~~

~~(ww) The ambient benchmark for xylenes, mixed (1330-20-7) is 200 micrograms per cubic meter.~~

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

~~(yy) The ambient benchmark for methanol (67-56-1) is 4,000 micrograms per cubic meter.~~

~~(zz) The ambient benchmark for phosgene (75-44-5) is 0.3 micrograms per cubic meter.~~

~~(aaa) The ambient benchmark for n-propyl bromide (106-94-5) is 0.5 micrograms per cubic meter.~~

~~(bbb) The ambient benchmark concentration for styrene (100-42-5) is 1,000 micrograms per cubic meter.~~

**Statutory/Other Authority:** ORS 468.020, 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135
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DEQ 9-2010, f. & cert. ef. 8-31-10
DEQ 12-2006, f. & cert. ef. 8-15-06
DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0110**
**Source Category Rules and Strategies**

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

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

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

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

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

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

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

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

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

**Statutory/Other Authority:** ORS 468.020, 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135
**Statutes/Other Implemented:** ORS 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135~~**Statutory/Other Authority:** ORS 468.035, 468A.010(1) & 468A.015~~
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**340-246-0130**
**Geographic Program (0130 through 0170)**

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

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

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**340-246-0150**
**Prioritizing and Selecting Geographic Areas**
(1) DEQ will prioritize geographic areas by considering the total cancer and non-cancer risk from ~~air toxic~~toxic air contaminants to the population in the area, as indicated by:

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

(b) The toxicity or potency of ~~air toxic~~toxic air contaminants exceeding ~~ambient benchmark~~ambient benchmark concentrations;

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

(d) The presence of sensitive populations;

(e) The effectiveness of local control strategies; and

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

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

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

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

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

(b) Population density;

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

(d) Meteorology;

(e) Geography and topography;

(f) Including all ~~air toxic~~toxic air contaminants exceeding ~~ambient benchmark~~ambient benchmark concentrations; and

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

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

**Statutory/Other Authority:** ORS 468.020, 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135
**Statutes/Other Implemented:** ORS 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135~~**Statutory/Other Authority:** ORS 468.035, 468A.010(1) & 468A.015~~
~~**Statutes/Other Implemented:** ORS 468A.015 & 468A.025~~
**History:**
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 187-2018, amend filed 05/14/2018, effective 05/14/2018
DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0170**
**Local ~~Air Toxic~~Toxic Air Contaminant~~s~~ Emissions Reduction Planning**

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

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

(2) Local Advisory Committee Tasks.

(a) Within 18 months of their first meeting, the committee will evaluate options for reducing emissions of ~~air toxic~~toxic air contaminants that exceed ~~ambient benchmark~~ambient benchmark concentrations, and recommend a local ~~air toxic~~toxic air contaminant~~s~~ reduction plan to DEQ.

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

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

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

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

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

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

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

(4) Elements of a~~n Air Toxic~~Toxic Air Contaminant~~s~~ Reduction Plan:

(a) Local ~~air toxic~~toxic air contaminant~~s~~ reduction plans must focus on the ~~air toxic~~toxic air contaminant or ~~air toxic~~toxic air contaminants measured or modeled above the ~~ambient benchmark~~ambient benchmark concentrations.

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

(c) The emissions reduction goals for individual ~~air toxic~~toxic air contaminants are ~~ambient benchmark~~ambient benchmark concentrations in local ~~air toxic~~toxic air contaminant~~s~~ reduction plans.

(d) Local ~~air toxic~~toxic air contaminant~~s~~ reduction plans must be designed to reduce ~~air toxic~~toxic air contaminant~~s~~ emissions in a timely manner.

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

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

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

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

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

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

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

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

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

(l) Local ~~air toxic~~toxic air contaminant~~s~~ reduction plans must include a contingency plan that will be implemented if evaluation at year six shows that an area is not meeting milestones and will not achieve the ten year goals established under OAR 340-246-0170(4)(d)(A). The contingency plan, like the original

plan, must require emissions reductions from the most significant sources of ~~air toxic~~toxic air contaminants. Mandatory emissions reduction strategies will be commensurate with source contributions, considering relative emissions, toxicity, technical feasibility cost-effectiveness and equity. Contingency plans must include but are not limited to:

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

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

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

**Statutory/Other Authority:** ORS 468.020, 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135
**Statutes/Other Implemented:** ORS 468.035, 468A.010(1), 468A.015, 468A.025 & 468A.135~~**Statutory/Other Authority:** ORS 468.035, 468A.010(1) & 468A.015~~
~~**Statutes/Other Implemented:** ORS 468A.015 & 468A.025~~
**History:**
DEQ 187-2018, amend filed 05/14/2018, effective 05/14/2018
DEQ 152-2018, minor correction filed 04/12/2018, effective 04/12/2018
DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0190 through 340-246-0230**
**Air Toxics Safety Net Program (0190 through 0230)**

Reserved for Safety Net Program

**Rules for Safety Net Program**

Removed Safety Net Program as it is redundant with requirements of Cleaner Air Oregon. Retain rule numbers for future use.

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

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

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

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

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

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

(d) The source is not subject to the permitting requirements under OAR chapter 340, division 245.

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

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

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

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

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

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

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

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

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

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

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

**Statutory/Other Authority:** ORS 468.035, 468A.010(1) & 468A.015
**Statutes/Other Implemented:** ORS 468A.015 & 468A.025
**History:**

DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 187-2018, amend filed 05/14/2018, effective 05/14/2018
DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0210**
**Safety Net Source Air Toxics Emissions Reductions**

Reserved for Safety Net Program

(1) Air Toxics Emissions Reduction Analysis:

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

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

(2) Air Toxics Emissions Reduction Requirements:

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

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

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

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

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

**Statutory/Other Authority:** ORS 468.035, 468A.010(1) & 468A.015
**Statutes/Other Implemented:** ORS 468A.015 & 468A.025
**History:**
DEQ 187-2018, amend filed 05/14/2018, effective 05/14/2018
DEQ 15-2003, f. & cert. ef. 11-3-03

**340-246-0230**
**Safety Net Source Air Toxics Emissions Reduction Measures in Permit**

Reserved for Safety Net Program

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

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

**Statutory/Other Authority:** ORS 468.020, 468A. 025, 468A.040 & 468A.310
**Statutes/Other Implemented:** ORS 468A.025, 468A.040 & 468A.310
**History:**
DEQ 153-2018, minor correction filed 04/12/2018, effective 04/12/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 15-2003, f. & cert. ef. 11-3-03

# Division 247 Draft Rules – Tracked Changes

Last revised: Apr. 7, 2021

Key to Identifying Changed Text:
New Text = Black Text
Blue Text = Moved from Division 245
Green Text = Moved from Division 246

**Division 247**
**HEALTH RISK-BASED AIR QUALITY STANDARDS FOR TOXIC AIR CONTAMINANTS**

**340-247-0010**
**Purpose and Overview**

Purpose and Overview. Division 247 lists air contaminants that are a priority for investigation in Oregon (Table 1), lists health risk-based standards for toxic air contaminants in Oregon (Table 2) and establishes the process for setting and updating these values. These scientific standards, also called toxicity reference values (TRVs), are used to help analyze public health risk from toxic air contaminants. These standards may be used by programs including, but not limited to, Cleaner Air Oregon (OAR-340-245) and the Oregon State Toxic Air Contaminants Program (OAR-340-246). Subject to the requirements in this division and OAR 340-200-0010(3), Lane Regional Air Protection Agency is designated by the EQC to implement the rules in this division within its area of jurisdiction.

**Statutory/Other Authority:** ORS 468.020, 468A.025 & 468A.135.
**Statutes/Other Implemented:** ORS 468A.025.

**340-247-0020**
**Definitions**

The definitions in OAR 340-200-0020 and 340-245-0020 and this rule apply to this division. If the same term is defined in this division and elsewhere, the definition in this division applies.

(1) "Toxic air contaminant" means an air pollutant that has been determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health and is listed in OAR 340-245~~5~~7-801~~2~~0 Table 2.

(2) "Toxicity Reference Value" or "TRV" means the following:

(a) For carcinogens, the air concentration corresponding to a one in one million excess cancer risk, calculated by dividing one in one million (0.000001) by the inhalation unit risk specific to that toxic air contaminant as established by the authoritative body that establishes the value, and as approved by the EQC; and

(b) For noncarcinogens, the air concentration above which relevant effects might occur to humans following environmental exposure, and below which it is reasonably expected that effects will not occur.

(c) For the purposes of these rules, DEQ will use the term toxicity reference value when referring to any similarly derived health-based toxicity value developed by other governmental agencies. Examples of names of values that DEQ will refer to as toxicity reference values include, but are not limited to reference concentrations (RfCs), reference exposure levels (RELs), or minimal risk levels (MRLs).

**Statutory/Other Authority:** ORS 468.020 468A.025 & 468A.135.
**Statutes/Other Implemented:** ORS 468A.025.

**340-247-0030**
**Toxicity Reference Values**

(1) This rule lists sources of toxicity information that the Oregon Health Authority (OHA) and the Department of Environmental Quality (DEQ) consider authoritative in terms of their scientific rigor and methods for producing toxicity information. OHA and DEQ will recommend adoption and use of Toxicity Reference Values from the toxicity information published by the following authoritative sources:

(a) DEQ in consultation with the Air Toxics Science Advisory Committee (ATSAC) ~~Ambient Benchmark Concentrations specified in OAR chapter 340, division 246~~;

~~(b) DEQ and OHA Short-term Guideline Concentrations;~~

(b~~c~~) United States Environmental Protection Agency (EPA) ~~Integrated Risk Information System (IRIS) or Office of Superfund Remediation and Technology Innovation (OSRTI)~~;

(c~~d~~) United States Agency for Toxic Substances and Disease Registry (ATSDR); and

(d~~e~~) California~~'s~~ Environmental Protection Agency (CalEPA) ~~Office of Environmental Health Hazard Assessment (OEHHA)~~.

(2) DEQ will calculate Toxicity Reference Values using one in one million as the target excess cancer risk level or a hazard quotient of one for noncancer Toxicity Reference Values.

## Authoritative Sources

- Proposed rules will contain only authoritative sources that are continuously updated.
- Proposing to list the agencies producing TRVs (e.g., EPA) instead of the individual program at the agency (e.g., IRIS)

**Statutory/Other Authority:** ORS 468.020, ~~468.065,~~ 468A.025, & 468A.135. ~~, 468A.040, 468A.050, 468A.070, 468A.155 & Or Laws 2018, ch. 102, § 3.~~
**Statutes/Other Implemented:** ORS ~~468.065, 468A.010, 468A.015,~~ 468A.025~~, 468A.035, 468A.040, 468A.050, 468A.070, 468A.155 & Or Laws 2018, ch. 102, §§ 2 and 3.~~
**History:** DEQ 197-2018, adopt filed 11/16/2018, effective 11/16/2018

**340-247-0040**
**Process for Updating the Lists of Priority ~~Regulated~~ Toxic Air Contaminants and ~~Their~~ Toxicity Reference Values ~~Risk-Based Concentrations~~**

(1) Purpose.

(a) As risk assessment and toxicological sciences advance, it is important that ~~to have~~ TRVs and priority toxic air contaminants ~~rules for Cleaner Air Oregon that allow for air quality regulation to~~ continue to reflect the latest practices and science~~. The list of toxic air contaminants that are regulated and their RBCs represent one area where regulations will need regular updating to accommodate advancing science and practices~~;

(b) These rules include two lists of toxic air contaminants:

(A) OAR 340-247~~5~~-8012~~0~~ Table 1~~2~~ contains toxic air contaminants that are considered a priority for investigation in Oregon ~~for emissions reporting~~. The ~~primary~~ purpose of OAR 340-247~~5~~-8012~~0~~ Table 1~~2~~ is to ~~inform prioritization of RBC development and~~ maintain a current and broad understanding of statewide toxic air contaminant emissions and ambient concentrations ~~as industries and industrial practices change~~ over time~~. The toxic air contaminants listed OAR 340-245-8020 Table 2 must be addressed in the uncertainty evaluation in a Level 3 or Level 4 Risk Assessment for the toxic air contaminants in OAR 340-245-8020 Table 2 that do not have RBCs~~; and

(B) OAR 340-247~~5~~-8023~~0~~ Table 2~~3~~ contains toxic air contaminants for which TRVs are readily available ~~and OAR 340-245-8040 Table 4 contains RBCs for regulation as part of air permitting~~. The purpose of OAR 340-247~~5~~-8023~~0~~ Table 2~~3~~ ~~and OAR 340-245-8040 Table 4~~ is to evaluate the ~~ensure that~~ public health impacts ~~to public health~~ from toxic air contaminants ~~industrial air emissions are minimized~~.

(2) OAR 340-247~~5~~-8012~~0~~ Table 1~~2~~, Priority Toxic Air Contaminants ~~Reporting~~ List.

(a) The Priority Toxic Air Contaminants ~~Reporting~~ List is comprised of contaminants listed on California Air Resources Board's Toxic Air Contaminant Identification List Appendix A-1;~~,~~ Washington's Table of Acceptable Source Impact Levels ~~ASIL~~, Small Quantity Emission Rate, ~~SQER~~ and de minimis emission values;~~,~~ Oregon's Toxics Focus list;~~,~~ and EPA's Hazardous Air Pollutants list;

(b) Every three years starting from November 16, 2018, DEQ, in consultation with OHA, will begin review of the four lists in subsection (a) for changes and may propose rule amendments to update the Priority Toxic Air Contaminants ~~Reporting~~ List in OAR 340-247~~5~~-8012~~0~~ Table 1~~2~~ to capture changes in any of those four lists since the last review ~~over the intervening three years~~;

(c) During the reviews of the Priority Toxic Air Contaminants ~~Reporting~~ List, DEQ may also propose rule amendments to add or remove toxic air contaminants based on information gathered from past reporting, industry types in Oregon that ~~are not~~ differ from those in California or Washington, or OHA's and DEQ's knowledge of toxic air contaminants that may be of potential public health concern in Oregon.~~; and~~

~~(d) Owners or operators of sources must report emissions of any newly listed toxic air contaminant during the next periodic state-wide emissions inventory required in OAR 340-245-0040 following the new listing, or earlier upon request by DEQ.~~

(3) OAR 340-247~~5~~-8023~~0~~ Table 2~~3~~, Toxicity Reference Values ~~and OAR 340-245-8040 Table 4, Risk-Based Concentrations~~.

~~(a) The list of Risk-Based Concentrations is comprised of all toxic air contaminants from the Toxic Air Contaminants Reporting List for which OHA and DEQ were able to establish RBCs;~~

(~~b~~) Every three years starting from November 16, 2018, or as necessary, DEQ, in consultation with OHA, will begin review of the toxic air contaminants and Toxicity Reference Values published by the authoritative sources listed in OAR 340-247~~5~~-0030 for changes since the last review ~~over the intervening three years~~. DEQ will propose rule amendments to implement one or more of the following actions, as appropriate:

(a~~A~~) Revise Toxicity Reference Values ~~and associated Risk-Based Concentrations~~ for toxic air contaminants listed in OAR 340-247~~5~~-802~~3~~0 Table 2~~3~~ ~~and OAR 340-245-8040 Table 4, as applicable,~~ if Toxicity Reference Values have been revised by authoritative sources listed in OAR 340-247~~5~~-0030 or if indicated as part of the petition process established in section (4);

(b~~B~~) Add toxic air contaminants to OAR 340-247~~5~~-802~~3~~0 Table 2~~3~~ ~~and 340-245-8040 Table 4, as applicable,~~ if Toxicity Reference Values have been generated by authoritative sources listed in OAR 340-247~~5~~-0300 for toxic air contaminants on the Priority Toxic Air Contaminants ~~Reporting~~ List in OAR 340-247~~5~~-801~~2~~0 Table 1~~2 from which RBCs can be set~~; ~~or~~ and

(c~~C~~) Remove or revise toxic air contaminants from OAR 340-247~~5~~-801~~3~~0 Table 2~~3~~ ~~and 340-245-8040 Table 4, as applicable,~~ if some or all authoritative sources listed in OAR 340-247~~5~~-0300 have rescinded Toxicity Reference Values for that toxic air contaminant without providing a replacement;

~~(c) DEQ will propose updates to OAR 340-2475-80230 Table 23 and 340-245-8040 Table 4, as applicable, through the rulemaking process.~~

(4) Interested parties may submit petitions to DEQ to update the lists of ~~regulated~~ toxic air contaminants to add or remove toxic air contaminants from OAR 340-247~~5~~-801~~2~~0 Table 1~~2~~ or revise a TRV in OAR 340-247~~5~~-802~~3~~0 Table 2~~3, or revise an RBC in OAR 340-245-8040 Table 4~~.

(a) All petitions must be made in writing and must be received by DEQ by October 31st ~~at least 18 months before the~~ of the applicable triennial review year described in section (2) or (3);

(b) A request to add a toxic air contaminant to the Priority Toxic Air Contaminants ~~Reporting~~ List in OAR 340-0247~~5~~-801~~2~~0 Table 1~~2~~ must include evidence that:

(A) The chemical is emitted in the state of Oregon at a rate of at least 1 pound per year; and

(B) The chemical is toxic;

(c) A request to remove a toxic air contaminant from the Priority Toxic Air Contaminant ~~Reporting~~ List in OAR 340-0247~~5~~-801~~2~~0 Table 1~~2~~, must demonstrate that the chemical is emitted in the state of Oregon at a rate less than 1 pound per year ~~the TRV list in OAR 340-245-8030 Table 3, or the RBC list in OAR 340-245-8040 Table 4 must demonstrate that all authoritative sources listed in OAR 340-245-0300 either do not have or have rescinded Toxicity Reference Values for that toxic air contaminant without providing a replacement~~;

(d) A request to remove a toxic air contaminant from the TRV List in OAR 340-247-8020 Table 2, must demonstrate that all authoritative sources listed in OAR 340-247-

## Petition Process

In original rules (Div. 245), (c) and (d) were combined. To clarify requirements and close an unintended avenue to petition to remove chemicals (c) and (d) are proposed as separate sections.

0030 have rescinded TRVs for that toxic air contaminant without providing a replacement;

(e~~d~~)(A) If the request to add or revise a TRV applies to a toxic air contaminant for which toxicity information is available from one or more of the authoritative sources listed in OAR 340-247~~5~~-0300, then only petitions to select a Toxicity Reference Value from one of those authoritative sources will be considered; ~~and~~

(B) If there are no TRVs established by any of the authoritative sources listed in OAR-247-0030 for a toxic air contaminant, then a petitioner may still ~~A~~ request to ~~revise or~~ add ~~a~~ Toxicity Reference Values in OAR 340-247~~5~~-8023~~0~~ Table 2~~3~~ ~~or an RBC in OAR 340-245-8040 Table 4 must include either~~. The request must include one or more of the following, in order of preference:

(i) Inhalation Toxicity Reference Values established by a federal agency or by another state; ~~or~~

**Petition Process**

Proposing to reorder (A) and (B) and add additional language to clarify the information required in a petition to add or revise a TRV.

(ii) Publicly available and peer-reviewed toxicity information for the toxic air contaminant that demonstrates a quantitative dose-response relationship in human or animal studies from which Toxicity Reference Values could be calculated; ~~or~~and

(iii) Publicly available and peer-reviewed new approach methodologies for inferring toxicity information from a well-studied toxic air contaminant to a structurally similar, but less-studied toxic air contaminant on the Priority Toxic Air Contaminants List;

(C) If a toxic air contaminant being requested for review has no available toxicity information as described in paragraph (B~~A~~) and is emitted at a rate of at least one pound per year in the state of Oregon, then DEQ will put the toxic air contaminant on a formal "Wait List", to be held there until toxicity information for that toxic air contaminant becomes available;

**Petition Process**

Proposal to add a third tier of toxicity information that could be included on a petition to add a TRV.

(f~~e~~) If DEQ, after consultation with OHA, determines that revisions are warranted as a result of a petition, DEQ will consult with ATSAC and propose rule amendments to revise ~~revisions to~~ TRVs ~~or RBCs~~ or additions or removals of toxic air contaminants to the Priority Toxic Air Contaminants ~~Reporting~~ List in OAR 340-247~~5~~-8012~~0~~ Table 1~~2~~, or the TRV list in OAR 340-247~~5~~-8023~~0~~ Table 2~~3~~ ~~or the RBC list in OAR 340-245-8040 Table 4 through the rulemaking process described in (3)(b)~~; and

(g~~f~~) If DEQ receives a request to add, remove, or revise a TRV ~~or RBC~~ or add or remove a toxic air contaminant from the Priority Toxic Air Contaminants ~~Reporting~~ List in OAR 340-247~~5~~-8012~~0~~ Table 1~~2~~, or the TRV list in OAR 340-247~~5~~-8023~~0~~ Table 2~~3~~ ~~or the RBC list in OAR 340-245-8040 Table 4~~ and the request is received ~~less than 18 months before~~ after October 31st the year of the applicable triennial review described in section (2) or (3), DEQ will review the request ~~will be reviewed~~ during the subsequent triennial review in section (3).

**Petition Process**

Update the deadlines for when petitions are due.

**Stat. Auth.:** ORS 468.020, ~~468.065,~~ 468A.025 & 468A.135. ~~, 468A.040, 468A.050, 468A.070, 468A.155 & Or Laws 2018, ch. 102, § 3.~~
**Stats. Implemented:** ~~ORS 468.065, 468A.010, 468A.015,~~ 468A.025~~, 468A.035, 468A.040, 468A.050, 468A.070, 468A.155 & Or Laws 2018, ch. 102, §§ 2 and 3.~~
**History:** DEQ 197-2018, adopt filed 11/16/2018, effective 11/16/2018

**340-2476-00570**
**Air Toxics Science Advisory Committee**

(1) Purpose. The Commission recognizes the many scientific uncertainties associated with the effects of ~~air toxics~~ toxic air contaminants, and the continuing development of new information in this field. An Air Toxics Science Advisory Committee (ATSAC), will advise DEQ~~, and in its jurisdiction, the Lane Regional Air Protection Agency Pollution Authority,~~ on the development of TRVs to be recommended to the Commission for use in ~~technical issues and evaluation of~~ the state's ~~air~~ toxics air contaminant program. ~~The ATSAC will provide advice on the technical aspects of risk assessment. It will not provide risk management or policy recommendations.~~ The ATSAC will ~~perform the following functions:~~

~~(a)~~ ~~R~~review and provide feedback on TRVs proposed by DEQ ~~ambient benchmarks for the state air toxics program;~~

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

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

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

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

**ATSAC Scope**

Proposal for rescoped ATSAC that will provide technical consultation during the triennial TRV reviews.

(2) Staffing. Personnel from both the DEQ and OHA will coordinate the work of ATSAC.

(3~~2~~) Membership. The ATSAC will be composed of highly qualified members with experience relevant to the development and review of ~~air~~ toxicity~~s~~ reference values. There will be at least five but no more than seven members. ~~The following disciplines will be represented on the ATSAC:~~ DEQ will evaluate qualifications of each ATSAC member and the capacity of the committee as a whole by seeking skills and experience relevant to:

(a) Toxicology and/or Toxicity Assessment, with additional consideration for experts with specialization in:

(A) Inhalation toxicology;

(B) Reproductive toxicology; or

**ATSAC Membership**

Proposed list of expertise. For example, a toxicity assessment determines how much of a chemical causes harm to health. Reviewers will need experiences with toxicity assessment experience in order to provide consultation during the TRV review process.

(C) Developmental toxicology;

(b) ~~Environmental Science or~~ Environmental and/or Atmospheric Chemistry ~~Engineering~~, with additional consideration for experts with specialization in:~~;~~

(A) Multi-pathway exposure;

(B) Bioaccumulation; and

~~(c) Risk Assessment;~~

(c~~d~~) Epidemiology/Biostatistics, with additional consideration for experts with specialization in:~~;~~

(A) Environmental public health;

(B) Neonatal and children's health;

(C) Medicine; or

(D) Health of vulnerable populations.

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

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

(4~~3~~) Appointment. DEQ's Air Quality Division Administrator will nominate potential members to the Director. Before making these nominations, the Administrator will develop a list of candidates by consulting with government, public, and private organizations involved in work relevant to ~~air~~ toxic~~s~~ air contaminants. The Director will appoint ATSAC members with concurrence by the Commission.

(5~~4~~) Term. Air Toxics Science Advisory Committee members each will serve a three-year term. Initial terms will be staggered for continuity and transfer of work so that members of the first ATSAC may serve more or less than three years.

(6~~5~~) Operation.

(a) No member may have an actual or potential conflict of interest, as those terms are defined by ORS 244.020 and must otherwise comply with government ethics requirements in ORS chapter 244.

(b) The ATSAC will meet as determined necessary by DEQ.

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

(c~~a~~) The ATSAC members will provide DEQ with findings and recommendations that DEQ will report to the Environmental Quality Commission, including consensus, majority, and minority opinions. ~~Final decisions must be made by a quorum of members, based on consensus when possible. If consensus is not possible, decisions will be made by majority vote with a quorum present.~~

## ATSAC Deliberations

- Clarifies committee operations.
- DEQ staff will report on ATSAC's recommendations, including consensus, majority, and minority opinions to the Environmental Quality Commission.

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

(e~~c~~) ~~The bylaws will include provisions for~~ATSAC may remove a member for cause, with concurrence by the Commission.
**Statutory/Other Authority:** ORS 468.035, 468A.010(1), 468A.015 & 468A.135.
**Statutes/Other Implemented:** ORS 468A.015 & 468A.025
**History:**
DEQ 187-2018, amend filed 05/14/2018, effective 05/14/2018
DEQ 15-2003, f. & cert. ef. 11-3-03

**340-24~~5~~7-802~~1~~0**
**Table ~~2~~1 – Priority Toxic Air Contaminant ~~Reporting~~ List**
[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

**Statutory/Other Authority:** ORS 468.020, ~~468.065,~~ 468A.025 & 468A.135. ~~, 468A.040, 468A.050, 468A.070 & 468A.155~~
**Statutes/Other Implemented:** ~~468.065,~~ 468A.025~~, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015 & 468A.035~~
**History:** DEQ 197-2018, adopt filed 11/16/2018, effective 11/16/2018

**340-24~~5~~7-802~~1~~0**
**Table ~~3~~2 - Toxicity Reference Values**
[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

**Statutory/Other Authority:** ORS 468.020, ~~ORS 468.065,~~ 468A.025 & 468A.135. ~~, 468A.040, 468A.050, 468A.070, 468A.155~~ & Or Laws 2018, ch. 102, § 7

**Statutes/Other Implemented:** ~~ORS 468.065,~~ 468A.025~~, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035~~ & Or Laws 2018, ch. 102, § 7

**History:** DEQ 8-2020, amend filed 04/24/2020, effective 04/24/2020 DEQ 197-2018, adopt filed 11/16/2018, effective 11/16/2018

# Division 247 Draft Rules – Clean Version

Last revised: Apr. 7, 2021

Key to Identifying Changed Text:
New Text = Black Text
Blue Text = Moved from Division 245
Green Text = Moved from Division 246

**Division 247**
**HEALTH RISK-BASED AIR QUALITY STANDARDS FOR TOXIC AIR CONTAMINANTS**

**340-247-0010**
**Purpose and Overview**

Purpose and Overview. Division 247 lists air contaminants that are a priority for investigation in Oregon (Table 1), lists health risk-based standards for toxic air contaminants in Oregon (Table 2) and establishes the process for setting and updating these values. These scientific standards, also called toxicity reference values (TRVs), are used to help analyze public health risk from toxic air contaminants. These standards may be used by programs including, but not limited to, Cleaner Air Oregon (OAR-340-245) and the Oregon State Toxic Air Contaminants Program (OAR-340-246). Subject to the requirements in this division and OAR 340-200-0010(3), Lane Regional Air Protection Agency is designated by the EQC to implement the rules in this division within its area of jurisdiction.

**Stat. Auth.:** ORS 468.020 & 468A.025.
**Stat. Implemented:** ORS 468A.025.

**340-247-0020**
**Definitions**

The definitions in OAR 340-200-0020 and 340-245-0020 and this rule apply to this division. If the same term is defined in this division and elsewhere, the definition in this division applies.

(1) "Toxic air contaminant" means an air pollutant that has been determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health and is listed in OAR 340-247-8010 Table 2.

(2) "Toxicity Reference Value" or "TRV" means the following:

(a) For carcinogens, the air concentration corresponding to a one in one million excess cancer risk, calculated by dividing one in one million (0.000001) by the inhalation unit risk specific to that toxic air contaminant as established by the authoritative body that establishes the value, and as approved by the EQC; and

(b) For noncarcinogens, the air concentration above which relevant effects might occur to humans following environmental exposure, and below which it is reasonably expected that effects will not occur.

(c) For the purposes of these rules, DEQ will use the term toxicity reference value when referring to any similarly derived health-based toxicity value developed by other governmental agencies. Examples of names of values that DEQ will refer to as toxicity reference values include, but are not limited to reference concentrations (RfCs), reference exposure levels (RELs), or minimal risk levels (MRLs).

**Stat. Auth.:** ORS 468.020, 468A.025 & 468A.135.
**Stat. Implemented:** ORS 468A.025.

**340-247-0030**
**Toxicity Reference Values**

(1) This rule lists sources of toxicity information that the Oregon Health Authority (OHA) and the Department of Environmental Quality (DEQ) consider authoritative in terms of their scientific rigor and methods for producing toxicity information. OHA and DEQ will recommend adoption and use of Toxicity Reference Values from the toxicity information published by the following authoritative sources:

(a) DEQ in consultation with the Air Toxics Science Advisory Committee (ATSAC)

(b) United States Environmental Protection Agency (EPA);

(c) United States Agency for Toxic Substances and Disease Registry (ATSDR); and

(d) California Environmental Protection Agency (CalEPA).

(2) DEQ will calculate Toxicity Reference Values using one in one million as the target excess cancer risk level or a hazard quotient of one for noncancer Toxicity Reference Values.

**Stat. Auth.:** ORS 468.020, 468A.025~~.~~ & 468A.135.
**Stats. Implemented:** ORS 468A.025.

**340-247-0040**
**Process for Updating the Lists of Priority Toxic Air Contaminants and Toxicity Reference Values**

(1) Purpose.

(a) As risk assessment and toxicological sciences advance, it is important that TRVs and priority toxic air contaminants continue to reflect the latest practices and science;

(b) These rules include two lists of toxic air contaminants:

(A) OAR 340-247-8010 Table 1 contains toxic air contaminants that are considered a priority for investigation in Oregon. The purpose of OAR 340-247-8010 Table 1 is to maintain a current and broad understanding of statewide toxic air contaminant emissions and ambient concentrations over time; and

(B) OAR 340-247-8020 Table 2 contains toxic air contaminants for which TRVs are readily available. The purpose of OAR 340-247-8020 Table 2 is to evaluate the public health impacts from toxic air contaminants.

(2) OAR 340-247-8010 Table 1, Priority Toxic Air Contaminants List.

(a) The Priority Toxic Air Contaminants List is comprised of contaminants listed on California Air Resources Board's Toxic Air Contaminant Identification List Appendix A-1; Washington's Table of Acceptable Source Impact Levels, Small Quantity Emission Rate, and de minimis emission values; Oregon's Toxics Focus list; and EPA's Hazardous Air Pollutants list;

(b) Every three years starting from November 16, 2018, DEQ, in consultation with OHA, will begin review of the four lists in subsection (a) for changes and may propose rule amendments to update the Priority Toxic Air Contaminants List in OAR 340-247-8010 Table 1 to capture changes in any of those four lists since the last review;

(c) During the reviews of the Priority Toxic Air Contaminants List, DEQ may also propose rule amendments to add or remove toxic air contaminants based on information gathered from past reporting, industry types in Oregon that differ from those in California or Washington, or OHA's and DEQ's knowledge of toxic air contaminants that may be of potential public health concern in Oregon.

(3) OAR 340-247-8020 Table 2, Toxicity Reference Values.

Every three years starting from November 16, 2018, or as necessary, DEQ, in consultation with OHA, will begin review of the toxic air contaminants and Toxicity Reference Values published by the authoritative sources listed in OAR 340-247-0030 for changes since the last review. DEQ will propose rule amendments to implement one or more of the following actions, as appropriate:

(a) Revise Toxicity Reference Values for toxic air contaminants listed in OAR 340-247-8020 Table 2 if Toxicity Reference Values have been revised by authoritative sources listed in OAR 340-247-0030 or if indicated as part of the petition process established in section (4);

(b) Add toxic air contaminants to OAR 340-247-8020 Table 2 if Toxicity Reference Values have been generated by authoritative sources listed in OAR 340-247-0030 for toxic air contaminants on the Priority Toxic Air Contaminants List in OAR 340-247-8010 Table 1; and

(c) Remove or revise toxic air contaminants from OAR 340-247-8010 Table 2 if some or all authoritative sources listed in OAR 340-247-0300 have rescinded Toxicity Reference Values for that toxic air contaminant without providing a replacement;

(4) Interested parties may submit petitions to DEQ to update the lists of toxic air contaminants to add or remove toxic air contaminants from OAR 340-247-8010 Table 1 or revise a TRV in OAR 340-247-8020 Table 2.

(a) All petitions must be made in writing and must be received by DEQ by October 31st of the applicable triennial review year described in section (2) or (3);

(b) A request to add a toxic air contaminant to the Priority Toxic Air Contaminants List in OAR 340-0247-8010 Table 1 must include evidence that:

(A) The chemical is emitted in the state of Oregon at a rate of at least 1 pound per year; and

(B) The chemical is toxic;

(c) A request to remove a toxic air contaminant from the Priority Toxic Air Contaminant List in OAR 340-0247-8010 Table 1, must demonstrate that the chemical is emitted in the state of Oregon at a rate less than 1 pound per year;

(d) A request to remove a toxic air contaminant from the TRV List in OAR 340-247-8020 Table 2, must demonstrate that all authoritative sources listed in OAR 340-247-0030 have rescinded TRVs for that toxic air contaminant without providing a replacement;

(e) (A) If the request to add or revise a TRV applies to a toxic air contaminant for which toxicity information is available from one or more of the authoritative sources listed in OAR 340-247-0300, then only petitions to select a Toxicity Reference Value from one of those authoritative sources will be considered;

(B) If there are no TRVs established by any of the authoritative sources listed in OAR 340-247-0030 for a toxic air contaminant, then a petitioner may still request to add Toxicity Reference Values in OAR 340-247-8020 Table 2. The request must include one or more of the following, in order of preference:

(i) Inhalation Toxicity Reference Values established by a federal agency or by another state;

(ii) Publicly available and peer-reviewed toxicity information for the toxic air contaminant that demonstrates a quantitative dose-response relationship in human or animal studies from which Toxicity Reference Values could be calculated; and

(iii) Publicly available and peer-reviewed new approach methodologies for inferring toxicity information from a well-studied toxic air contaminant to a structurally similar, but less-studied toxic air contaminant on the Priority Toxic Air Contaminants List;

(C) If a toxic air contaminant being requested for review has no available toxicity information as described in paragraph (B) and is emitted at a rate of at least one pound per year in the state of Oregon, then DEQ will put the toxic air contaminant on a formal "Wait List", to be held there until toxicity information for that toxic air contaminant becomes available;
(f) If DEQ, after consultation with OHA, determines that revisions are warranted as a result of a petition, DEQ will consult with ATSAC and propose rule amendments to revise TRVs or for additions or removals of toxic air contaminants to the Priority Toxic Air Contaminants List in OAR 340-247-8010 Table 1 or the TRV list in OAR 340-247-8020 Table 2; and

(g) If DEQ receives a request to add, remove, or revise a TRV or add or remove a toxic air contaminant from the Priority Toxic Air Contaminants List in OAR 340-247-8010 Table 1, or the TRV list in OAR 340-247-8020 Table 2 and the request is received after October 31st the year of the applicable triennial review described in section (2) or (3), DEQ will review the request during the subsequent triennial review in section (3).

**Stat. Auth.:** ORS 468.020, 468A.025 & 468A.135.
**Stats. Implemented:** 468A.025.

**340-247-0050**
**Air Toxics Science Advisory Committee**

(1) Purpose. The Commission recognizes the many scientific uncertainties associated with the effects of toxic air contaminants, and the continuing development of new information in this field. An Air Toxics Science Advisory Committee (ATSAC), will advise DEQ, on the development of TRVs to be recommended to the Commission for use in the state's toxic air contaminant program. The ATSAC will review and provide feedback on TRVs proposed by DEQ.

(2) Staffing. Personnel from both the DEQ and OHA will coordinate the work of ATSAC.

(3) Membership. The ATSAC will be composed of highly qualified members with experience relevant to the development and review of toxicity reference values. There will be at least five but no more than seven members. DEQ will evaluate qualifications of each ATSAC member and the capacity of the committee as a whole by seeking skills and experience relevant to:

(a) Toxicology and/or Toxicity Assessment, with additional consideration for experts with specialization in:~~;~~

(A) Inhalation toxicology

(B) Reproductive toxicology, or

(C) Developmental toxicology;

(b) Environmental and/or Atmospheric Chemistry, with additional consideration for experts with specialization in:

(A) Multi-pathway exposure,

(B) Bioaccumulation; and

(c) Epidemiology/Biostatistics, with additional consideration for experts with specialization in:

(A) Environmental public health

(B) Neonatal and children's health,

(C) Medicine, or

(D) Health of vulnerable populations.

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

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

(6) Operation.

(a) No member may have an actual or potential conflict of interest, as those terms are defined by ORS 244.020 and must otherwise comply with government ethics requirements in ORS chapter 244.

(b) The ATSAC will meet as determined necessary by DEQ.

(c) The ATSAC members will provide DEQ with findings and recommendations that DEQ will report to the Environmental Quality Commission, including consensus, majority, and minority opinions.

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

(e) ATSAC may remove a member for cause, with concurrence by the Commission.

**Statutory/Other Authority:** ORS 468.035, 468A.010(1), ~~&~~ 468A.015 & 468A.135.
**Statutes/Other Implemented:** ORS 468A.015 & 468A.025

**340-247-8010**
**Table 1 – Priority Toxic Air Contaminant List**

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

**Stat. Auth.:** ORS 468.020, 468A.025 & 468A.135.
**Stats. Implemented:** 468A.025.

**340-247-8010**
**Table 2 - Toxicity Reference Values**

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

**Stat. Auth.:** ORS 468.020, 468A.025& 468A.135.
**Stats. Implemented:** 468A.025.