



Oregon Department of Environmental Quality
July 11-13, 2017
Oregon Environmental Quality Commission meeting
Rulemaking, Action item G

Update Oregon's air quality rules to address federal regulations

This file contains the following documents:

- EQC Staff Report
- Attachment A: Draft rules – redline/strikethrough
- Attachment B: Draft rules – no markup
- Attachment C: CISWI Work Plan
- Attachment D: Supporting document

DEQ recommendation to the EQC

DEQ recommends that the Oregon Environmental Quality Commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

This includes adopting:

- New federal standards for crude oil and natural gas facilities; electric generating units; kraft pulp mills; and wool fiberglass manufacturing
- Newly amended federal standards
- Amendments to the rule and state plan that implement the federal emission guidelines for commercial and industrial solid waste incineration units

Overview

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.

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.

Regulated parties

This rulemaking affects facilities subject to new and modified NESHAPs, New Source Performance Standards, and Emission Guidelines as outlined below.

Outline

DEQ proposes rules to:

1. Adopt new rules to incorporate by reference the new federal New Source Performance Standards for:
 - a. Kraft pulp mills for which construction, reconstruction, or modification commenced after May 23, 2013,
 - b. Crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after Sep. 18, 2015, and
 - c. Greenhouse gas emissions for electric generating units.
2. Adopt new rules to incorporate by reference the new federal area source NESHAPs for wool fiberglass manufacturing.

3. Update existing rules to incorporate the following federal changes by reference; these updates are accomplished in the rules by updating the version of the Code of Federal Regulations in the definitions of that term in OAR Chapter 340 divisions 238 and 244:
 - a. Amended federal area source NESHAPs for:
 - Electric arc furnaces steelmaking facilities (residual risk and technology review)
 - Polyvinyl chloride and copolymers production
 - b. Amended federal major source NESHAPs for:
 - Aerospace manufacturing and rework (residual risk and technology review)
 - Amino and phenolic resin manufacturing (residual risk and technology review)
 - Brick and structural clay products manufacturing
 - Clay ceramics manufacturing
 - Electric utility steam generating units
 - Ferroalloys production: ferromanganese and silicomanganese
 - Flexible polyurethane foam production (residual risk and technology review)
 - Generic maximum achievable control technology (residual risk and technology review)
 - Industrial, commercial, and industrial boilers and process heaters
 - Marine tank loading operations
 - Mineral wool production
 - Offsite waste and recovery (residual risk and technology review)
 - Pesticide active ingredient production (residual risk and technology review)
 - Petroleum refineries
 - Petroleum refineries – catalytic cracking, catalytic reforming and sulfur recovery
 - Phosphate fertilizer production (residual risk and technology review)
 - Phosphoric acid manufacturing (residual risk and technology review)
 - Polyether polyols production (residual risk and technology review)
 - Polymer and resin production (residual risk and technology review)
 - Portland cement manufacturing
 - Primary aluminum reduction (residual risk and technology review)

- Secondary lead smelting
- c. Amended federal major and area source NESHAPs for:
 - Chromium electroplating and anodizing
 - Secondary aluminum production (residual risk and technology review)
- d. Amended federal New Source Performance Standards for:
 - Commercial and industrial solid waste incineration units
 - Crude oil and natural gas production, transmission and distribution
 - Electric utility steam generating units
 - Nitric acid plants
 - Onshore natural gas processing
 - Petroleum refineries
 - Phosphate fertilizer plants
 - Polymer manufacturing
 - Portland cement plants
 - Rubber tire manufacturing
 - Stationary gas turbines
 - Synthetic organic chemical manufacturing
- 4. Update an existing rule and the state plan to implement federal changes to the emission guidelines for commercial and industrial solid waste incineration units

Statement of Need

What need is DEQ trying to address?

Oregon does not have rules to implement the following federal standards and emission guidelines:

- a. Toxics of concern.
EPA developed standards to regulate the amount of hazardous air pollutants certain activities can produce.
- b. Sources that may endanger public health and welfare.
EPA identified certain source categories that cause or significantly contribute to air pollution and may endanger public health or welfare. EPA developed standards to regulate the amount of emissions these source categories can produce.
- c. Revised federal standards.
EPA revised several standards and emission guidelines since EQC's previous adoption of federal standards and emission guidelines. Not adopting the most recent version of federal standards and emission guidelines impacts Oregon businesses, because they may be subject to two different standards. Not adopting the most recent version of the federal standards and emission guidelines also impacts the public and the environment, because DEQ cannot enforce federal standards and emission guidelines not yet adopted by EQC.

How would the proposed rules address the need?

The proposed rules would update Oregon rules to reflect new and amended federal standards and emission guidelines. This would advance DEQ's work to protect Oregonians from toxic pollutants by updating state rules to align with federal rules.

- a. Toxics of concern.
DEQ proposes adopting the new residual risk and technology standards for aerospace manufacturing and rework, amino and phenolic resin manufacturing, electric arc furnaces steelmaking facilities, flexible polyurethane foam production, generic maximum achievable control technology, offsite waste and recovery, pesticide active ingredient production, phosphate fertilizer production, phosphoric acid manufacturing, polyether polyols production, polymer and resin production, primary aluminum reduction, and secondary aluminum production. This would give DEQ the authority to include the new federal requirements in Title V Permits.
- b. Sources that may endanger public health and welfare.
DEQ proposes adopting the new federal standards for crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after Sep. 18, 2015; greenhouse gas emissions from electric generating units;

kraft pulp mills constructed, reconstructed, or modified after May 23, 2013; and wool fiberglass manufacturing. This would give DEQ the authority to include the new federal requirements in Title V Permits.

- c. Revised federal standards.
DEQ proposes adopting revised federal standards by reference.
- d. Revised federal emission guidelines.
EPA amended emission guidelines for commercial and industrial solid waste incineration units. States are required to develop rules and state plans to implement federal emission guidelines.

How will DEQ know the need has been addressed?

Upon EQC adoption, DEQ would submit the rules and the state plan for commercial and industrial solid waste incineration units to EPA to update Oregon's New Source Performance Standard and NESHAP delegation and receive state plan approval.

The purpose of this rulemaking is to align Oregon's rules with the most current federal rules and guidelines. After publishing this rulemaking, DEQ will submit an updated delegated request and state plan to EPA.

Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rule's substantive goals while reducing negative economic impact of the rules on business.

Rules affected, authorities, supporting documents

Lead division

Operations

Program or activity

Program Operations section

Chapter 340 action

Recommendation	Division	Rule	Title
amend	230	0500	Emission Standards for Commercial and Industrial Solid Waste Incineration Units
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 and 468A.025

Statute implemented

ORS 468A.025 and 468A.040

Documents relied on for rulemaking ORS 183.335(2)(b)(C)

See list at the end of this document of new and amended NESHAPs and NSPSs proposed for EQC adoption, which includes links to the Federal Register.

Fee Analysis

This rule proposal does not involve fees.

Statement of fiscal and economic impact

Fiscal and Economic Impact

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

The list of proposed new and amended National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards and Emission Guidelines includes links to the federal rules and EPA's evaluation of fiscal and economic impacts in their preambles. The list is available at the bottom of this document or online at [Update Oregon's Air Quality Rules to Address Federal Regulations](#).

Statement of Cost of Compliance

Impacts on public

The proposed rules would not affect the public because the fiscal and economic impacts of the new and amended federal standards and emission guidelines included in this rulemaking have already occurred.

Impact on other government entities other than DEQ

The proposed rules would not affect other government entities other than DEQ because the fiscal and economic impacts of the new and amended federal standards and emission guidelines included in this rulemaking have already occurred.

Impact on DEQ

Implementing the federal rules and emission guidelines requires DEQ to provide technical assistance, amend permits, perform inspections and issue formal and informal enforcement actions against violators. Revenue from permit fees would fund this work using existing staff.

Impact on large businesses (all businesses that are not small businesses below)

The proposed rules would not impact large businesses because the fiscal and economic impacts of the new and amended federal standards and emission guidelines included in this rulemaking have already occurred.

Impact on small businesses (those with 50 or fewer employees) [ORS 183.336](#)

The proposed rules would not impact small businesses because the fiscal and economic impacts of the new and amended federal standards and emission guidelines included in this rulemaking have already occurred.

<p>a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.</p>	<p>Estimated number of small business subject to new federal standards: crude oil and natural gas facilities (0); electric generating units (0); kraft pulp mills (0); and wool fiberglass manufacturing (0).</p> <p>Estimated number of small business subject to the amended federal standards and emission guidelines: aerospace manufacturing and rework (0); amino and phenolic resin manufacturing (0); brick and structural clay products manufacturing (0); chromium electroplating and anodizing (10); clay ceramics manufacturing (0); commercial and industrial solid waste incineration units (2); crude oil and natural gas production, transmission and distribution (0); electric arc furnaces steelmaking facilities (1); electric utility steam generating units (1); flexible polyurethane foam production (0); generic maximum achievable control technology (0); marine tank loading operations (0); nitric acid plants (0); offsite waste and recovery (0); onshore natural gas processing (0); pesticide active ingredient production (0); petroleum refineries (0); phosphate fertilizer production (0); phosphoric acid manufacturing (0); polyether polyols production (0); polymer and resin production (0); polymer manufacturing (0); polyvinyl chloride and copolymers production (0); portland cement manufacturing (1); primary aluminum reduction (0); secondary aluminum production (1); rubber tire manufacturing (0); secondary lead smelting (0); stationary gas turbines (0); and synthetic organic chemical manufacturing (0).</p>
<p>b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.</p>	<p>Adoption of new and amended federal standards and 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.</p>
<p>c) Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.</p>	<p>Adoption of new and amended federal standards and 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.</p>
<p>d) Describe how DEQ involved small businesses in developing this proposed</p>	<p>DEQ did not appoint an advisory committee for this rulemaking because the rulemaking would adopt</p>

rule.	federal standards by reference.
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Advisory committee

DEQ did not appoint an advisory committee for this rulemaking because the rulemaking would adopt federal regulations by reference.

Housing cost

To comply with [ORS 183.534](#), DEQ determined the proposed rules would not 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.

Federal relationship

"It is the policy of this state that agencies shall seek to retain and promote the unique identity of Oregon by considering local conditions when an agency adopts policies and rules. However, since there are many federal laws and regulations that apply to activities that are also regulated by the state, it is also the policy of this state that agencies attempt to adopt rules that correspond with equivalent federal laws and rules..." [ORS 183.332](#)

Relationship to federal requirements

This section complies with [OAR 340-011-0029](#) and [ORS 468A.327](#) to clearly identify the relationship between the proposed rules and applicable federal requirements.

The proposed rules would adopt the federal New Source Performance Standards and NESHAPs by reference.

What alternatives did DEQ consider, if any?

DEQ considered:

- Not taking delegation for some or all federal standards. DEQ rejected this alternative because it is important to have all requirements applying to a source in the permit to ensure that the source is in compliance.
- 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 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 state wide 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 will implement the proposed standards 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 are considered land-use programs in the DEQ State Agency Coordination Program.

DEQ's statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules. DEQ would implement these rules through the Air Contaminant Discharge Program and Title V permitting programs. Current rules

require cities and counties to provide a Land Use Compatibility Statement before DEQ issues these permits or approves a Notice of Construction.

Stakeholder and public involvement

Advisory committee

DEQ did not appoint an advisory committee for this rulemaking because the rulemaking would adopt federal regulations by reference.

EQC prior involvement

DEQ shares general rulemaking information with the commission through the Director's report and informational items on the EQC agenda. DEQ did not present additional information specific to this proposed rule revision.

Public notice

DEQ published the Notice of Proposed Rulemaking with Hearing for this rulemaking as follows:

On Dec. 15, 2015, DEQ submitted notice to:

- Secretary of State for publication in the Jan. 1, 2016 [*Oregon Bulletin*](#)
- The DEQ Rulemaking Web page [Update Oregon's Air Quality Rules to Address Federal Regulations](#)
- E-mail notice to:
 - Approximately 5,750 interested parties through GovDelivery
 - Approximately 11 parties affected by the new and amended federal air quality regulations.
 - Key legislators required under ORS 183.335, including:
 - Senator Chris Edwards, Chair, House Energy and Environment Committee
 - Representative Jessica Vega-Pederson, Co-Chair, Senate Environment and Natural Resources Committee
- Sent notice to EPA

On Nov. 15, 2016, DEQ submitted notice to:

- Secretary of State for publication in the Dec. 1, 2016, [*Oregon Bulletin*](#)
- The DEQ Rulemaking Web page [Update Oregon's Air Quality Rules to Address Federal Regulations](#)
- E-mail notice to:
 - Approximately 5,750 interested parties through GovDelivery
 - Approximately 11 parties affected by the new and amended federal air quality regulations.

- Key legislators required under ORS 183.335, including:
 - o Senator Chris Edwards, Chair, House Energy and Environment Committee
 - o Representative Jessica Vega-Pederson, Co-Chair, Senate Environment and Natural Resources Committee
- Sent notice to EPA

Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business. This document includes a summary of comments and DEQ responses.

Public hearings and comment

DEQ held two public hearings. DEQ received nine public comments from two public commenters. Later sections of this document include a summary of comments received, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Presiding Officers' Record

Hearing 1

Meeting location: DEQ Headquarters, 811 SW Sixth Ave., Portland, OR 97204. People unable to attend the Portland hearing in person were able to participate by teleconference

Meeting date and time: Jan. 21, 2016, at 5 p.m.

Presiding Officer: Susan Carlson

No one attended the hearing in-person or by teleconference or webinar.

The presiding officer convened the hearing and was prepared to summarize procedures for the hearing and explained that DEQ was recording the hearing. The presiding officer was prepared to ask 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 was prepared to advise 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 was prepared to summarize the content of the rulemaking notice.

DEQ was prepared to add all names and affiliations of hearing participants who presented testimony to the commenter section of this staff report. DEQ was prepared to add all written and oral comments presented at each hearing to the summary of comments and agency responses section of this staff report.

Hearing 2

Meeting location: DEQ Headquarters, 700 NE Multnomah Street, Suite 600, Portland, OR 97232. People unable to attend the Portland hearing in person were able to participate by teleconferencing and a webinar

Meeting date and time: Dec. 19, 2016, at 5 p.m.

Presiding Officer: Donald Hendrix

No one attended the hearing in-person or by teleconference or webinar.

The presiding officer convened the hearing and was prepared to summarize procedures for the hearing and explained that DEQ was recording the hearing. The presiding officer was prepared to ask 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 was prepared to advise 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 was prepared to summarize the content of the rulemaking notice.

DEQ was prepared to add all names and affiliations of hearing participants who presented testimony to the commenter section of this staff report. DEQ was prepared to add all written and oral comments presented at each hearing to the summary of comments and agency responses section of this staff report.

Summary of comments and DEQ responses

The following is a summary of the public comment received by the close of the public comment period. DEQ's response follows the summary. The original comment is on file with DEQ. DEQ changed the proposed rules in response to comments.

Comment NWPPA has reviewed the proposal and supports state adoption of the federal rule changes to keep Oregon's air quality program current with federal standards.

Response Thank you for your comment.

Comment OAR 340-230-0500(4)(b): The comparable provisions in the CISWI emission guidelines also includes air curtain incinerators. See 40 CFR 60.2550(b).

Response Thank you for your comment. In response, "or air curtain incinerator" was added to OAR 340-230-0500(4)(b).

Comment OAR 340-230-0500(4)(b): The comparable provisions in the CISWI emission guidelines also includes air curtain incinerators. See 40 CFR 60.2550(b).

Response Thank you for your comment. In response, "or air curtain incinerator" was added to OAR 340-230-0500(4)(b).

Comment OAR 340-230-0500(5)(b): We do not understand the reason for the proposed deletion in this provision.

Response Thank you for your comment. In response, "Part 60 Subpart Cb (Emission Guidelines and Compliance Times for Large Municipal Combustors)" was added back to OAR 340-230-0500(5)(b).

Comment OAR 340-230-0500(6)(a)(A): "Whichever is earlier" appears to be no longer needed with the other proposed deletions in this subparagraph.

Response Thank you for your comment. In response, "whichever is earlier" was removed from OAR 340-230-0500(6)(a)(A).

Comment OAR 340-230-0500(6)(i)(C): We understand that Oregon's intent is for these rules to go into effect as a matter of state law as provided in these rules regardless of when and whether EPA approves Oregon's CISWI plan. The reference to "the effective date of State Plan approval" in this provision does not appear to be consistent with that intent.

Response Thank you for your comment. In response, “on the effective date of State Plan approval” was changed to “February 7, 2018” in OAR 340-230-0500(6)(i)(C).

Comment OAR 340-230-0500(7)(b): Again, the reference to “the effective date of State plan approval” here seems inconsistent with our understanding of Oregon’s intent that the effectiveness of the rules as a matter of state law not be contingent on EPA approval.

Response Thank you for your comment. In response, the increments of progress and achieving final compliance requirements in OAR 340-230-0500(7)(b), (7)(b)(A) and (7)(b)(B) were revised to be consistent with the increments of progress and achieving final compliance requirements in OAR 340-230-0500(6)(a), (6)(a)(A) and (6)(a)(B). Also in response, replaced “effective date of state plan approval” to “April 20, 2017” in OAR 340-0500(3)(a).

Comment OAR 340-230-0500(7)(f)(A) and (h)(A): Should the references to paragraph 8 be to paragraph 7?

Response Thank you for your comment. In response, “8” was changed to “7” in OAR 340-230-0500(7)(f)(A) and (7)(h)(A).

Comment OAR 340-230-0500(7)(i): The reference to the “Administrator” in 40 CFR 60.2870(b) should be to EPA as well as DEQ to ensure EPA also has access to these records.

Response Thank you for your comment. In response, “DEQ” was changed to “DEQ or the EPA Administrator” in OAR 340-230-0500(7)(i).

Comments received by close of public comment period

The following lists people and organizations that submitted public comments about the proposed rules by the deadline. Original comments are on file with DEQ.

Commenter Kathryn VanNatta

Affiliation Northwest Pulp & Paper Association

Commenter Donald A. Dossett

Affiliation U.S. Environmental Protection Agency, Region 10

Implementation

Notification

The proposed rules would become effective upon filing on approximately July 13, 2017. DEQ would notify affected parties by contacting existing permittees of the need to incorporate new requirements into their permits.

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 three 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. The current rules are expected to be adopted in July 2017.

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 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.

Requirement

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 all 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)).

Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

~~Text deleted from one location - and moved to another location~~

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 230

INCINERATOR REGULATIONS

340-230-0500, Municipal Waste Combustors:

Emission Standards for Commercial and Industrial Solid Waste Incineration Units

(1) Purpose. This rule implements the emission guidelines and compliance schedules for the control of emissions from commercial and industrial solid waste incineration (CISWI) units.

(2) Definitions. Terms used in this rule are as defined in 40 ~~CFR~~C.F.R. 60.2875. In 40 ~~CFR~~C.F.R. 60.2875, substitute “is defined by the EPA administrator” for “is defined by the Administrator” and substitute “established by the EPA Administrator by rule” for “established by the Administrator by rule”.

(3) Compliance schedule.

(a) CISWI units in the incinerator subcategory and air curtain incinerators that commenced construction on or before November 30, 1999, must achieve final compliance ~~as expeditiously as practicable after approval of the State plan but~~ not later than ~~the earlier of the following two dates:~~

~~(A) December 1, 2005.~~

~~(B) Three years after the effective date of State plan approval~~April 20, 2017.

(b) CISWI units in the incinerator subcategory and air curtain incinerators, that commenced construction after November 30, 1999, but on or before June 4, 2010 or that commenced reconstruction or modification on or after June 1, 2001 but not later than August 7, 2013, and for CISWI units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories, that commenced construction before June 4, 2010, must achieve final compliance as expeditiously quickly as ~~practicable possible after approval of the state plan~~ but not later than ~~three years after the effective date of State plan approval or~~ February 7, 2018, ~~whichever is earlier.~~

(4) Affected CISWI units.

(a) Incineration units that meet all of the following three criteria are affected CISWI units:

(A) CISWI units that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010 but no later than August 7, 2013.

(B) Incineration units that meet the definition of a CISWI unit in 40 ~~CFRC.F.R.~~ 60.2875.

(C) Incineration units not exempt under section (5) of this rule.

(b) If the owner or operator of a CISWI unit or air curtain incinerator makes changes that meets the definition of modification or reconstruction on or after ~~June 1, 2001~~August 7, 2013, the CISWI unit becomes subject to 40 ~~CFRC.F.R.~~ Part 60 Subpart CCCC and this rule no longer applies to that unit.

(c) If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with this rule, then 40 ~~CFRC.F.R.~~ Part 60 Subpart CCCC does not apply to that unit. Such changes do not qualify as modifications or reconstructions under 40 ~~CFRC.F.R.~~ Part 60 Subpart CCCC.

(5) Exempt units. The types of units in subsections (5)(a) through (k) of this rule are exempt from this rule, but some units are required to provide notifications. Air curtain incinerators are exempt from the requirements of this rule except for the requirements in sections (7) and (8) of this rule.

(a) Pathological waste incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low level radioactive waste, and/or chemotherapeutic waste as defined in 40 ~~CFRC.F.R.~~ 60.2875 if the owner or operator meets the following two requirements:

(A) Notify DEQ and EPA Administrator that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(b) Municipal waste combustion units that ~~are subject to meet the applicability criteria in~~ 40 ~~CFRC.F.R.~~ Part 60 Subpart Cb (Emission Guidelines and Compliance Times for Large Municipal Combustors); Ea (Standards of Performance for Municipal Waste Combustors); Eb (Standards of Performance for Large Municipal Waste Combustors); AAAA (Standards of Performance for Small Municipal Waste Combustion Units); or BBBB (Emission Guidelines for Small Municipal Waste Combustion Units).

(c) Medical waste incineration units ~~regulated under that meet the applicability criteria in~~ 40 ~~CFRC.F.R.~~ Part 60 Subpart Ca (Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators) or Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996).

(d) Small power production facilities that meet the following four requirements:

(A) The unit qualifies as a small power-production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. § 796(17)(C)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(C) The owner or operator submits documentation to DEQ ~~and that~~ the EPA Administrator notifying DEQ and EPA that has determined that the qualifying small power production facility is combusting homogenous waste.

(D) The owner or operator maintains the records specified in 40 ~~CFR~~C.F.R. 60.2740(v).

(e) Cogeneration facilities. Units that meet the following three requirements:

(A) The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. § 796(18)(B)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) The owner or operator submits documentation to DEQ ~~and that~~ the EPA Administrator notifying DEQ and EPA has determined that the qualifying cogeneration facility is combusting homogenous waste.

(D) The owner or operator maintains the records specified in 40 ~~CFR~~C.F.R. 60.2740(w).

(f) Hazardous waste combustion units for which the owner or operator is required to get a permit under section 3005 of the Solid Waste Disposal Act ~~(42 U.S.C. § 6925)~~.

(g) Materials recovery units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters.

(h) Air curtain incinerators that burn only the following materials are only required to meet the requirements under section (8) of this rule and under “Air Curtain Incinerators” (section (7) of this rule):

(A) 100 percent wood waste.

(B) 100 percent clean lumber.

(C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(i) Sewage treatment plants regulated under 40 ~~CFR~~C.F.R. Part 60 Subpart O (Standards of Performance for Sewage Treatment Plants).

(j) Sewage sludge incineration units combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter that are

~~subject to meet the applicability criteria in~~ 40 ~~CFRC.F.R.~~ Part 60 Subpart LLLL (Standards of Performance for Sewage Sludge Incineration Units) or 40 ~~CFRC.F.R.~~ Part 60 Subpart MMMM (Emission Guidelines for Sewage Sludge Incineration Units).

(k) Other solid waste incineration units that ~~are subject to meet the applicability criteria in~~ 40 ~~CFRC.F.R.~~ Part 60 Subpart EEEE (Standards of Performance for Other Solid Waste Incineration Units ~~for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or after June 16, 2006~~) or 40 ~~CFRC.F.R.~~ Part 60 Subpart FFFF (Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units ~~That Commenced Construction On or Before December 9, 2004~~).

(6) Requirements for CISWI units.

(a) Increments of Progress and Achieving Final Compliance. ~~If planning to achieve compliance more than 1 year following the effective date of State plan approval, an~~ The owner or operator of an affected CISWI unit must meet the following increments of progress:

(A) Submit a final control plan by ~~two years after the effective date of State plan approval or February~~ August 7, 2017, ~~whichever is earlier~~, and

(B) Achieve final compliance by ~~three years after the effective date of State plan approval or February~~ 7, 2018, ~~whichever is earlier~~.

(b) Notifications of achievement of increments of progress. Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment. The notification of achievement of increments of progress must include the following three items:

(A) Notification that the increment of progress has been achieved.

(B) Any items required to be submitted with each increment of progress.

(C) Signature of the owner or operator of the CISWI unit or air curtain incinerator.

(c) Failure to meet an increment of progress. If failing to meet an increment of progress, the owner or operator must submit a notification to DEQ and the EPA Administrator postmarked within 10 business days after the date for that increment of progress. The owner or operator must inform DEQ and the EPA Administrator of the failure to meet the increment, and must continue to submit reports each subsequent calendar month until the increment of progress is met.

(d) Complying with the increment of progress for submittal of a control plan. For the control plan increment of progress, the owner or operator must satisfy the following two requirements:

(A) Submit the final control plan that includes the following five items:

(i) A description of the devices for air pollution control and process changes that will be used to comply with the emission limitations and other requirements of this rule.

(ii) The type(s) of waste to be burned.

(iii) The maximum design waste burning capacity.

(iv) The anticipated maximum charge rate.

(v) If applicable, the petition for site-specific operating limits under subsection (6)(k) of this rule.

(B) Maintain an onsite copy of the final control plan.

(e) Complying with the increment of progress for achieving final compliance. For the final compliance increment of progress, the owner or operator must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected CISWI unit is brought online, all necessary process changes and air pollution control devices would operate as designed.

(f) Closing a CISWI unit.

(A) If closing a CISWI unit but restarting it prior to the final compliance date, the owner or operator must meet the increments of progress.

(B) If closing a CISWI unit but restarting it after the final compliance date, the owner or operator must complete emission control retrofits and meet the emission limitations and operating limits on the date the unit restarts operation.

(C) If planning to close a CISWI unit rather than comply with this rule, the owner or operator must submit a closure notification, including the date of closure, to DEQ and the EPA Administrator by the date the final control plan is due.

(g) Waste management plan. Owners and operators of affected CISWI units must comply with 40 ~~CFRC.F.R.~~ 60.2620 through 60.2630. In 40 ~~CFRC.F.R.~~ 60.2625, substitute “OAR 340-230-0500(6)(a)(A)” for “table 1 of this subpart”.

(h) Operator training and qualification. Owners or operators of affected CISWI units must comply with 40 ~~CFRC.F.R.~~ 60.2635 through 60.2665. In 40 ~~CFRC.F.R.~~ 60.2665(b)(1), substitute “DEQ” for “the Administrator”. In 40 ~~CFRC.F.R.~~ 60.2665(b)(2) and (b)(2)(ii), substitute “EPA Administrator” for “Administrator”.

(i) Emission limitations. Owners and operators of affected CISWI units must comply with 40 ~~CFRC.F.R.~~ 60.2670 with the following changes:

(A) In 40 ~~CFRC.F.R.~~ 60.2670(a), substitute “in OAR 340-230-0500(3)” for “under the approved state plan, federal plan, or delegation, as applicable”.

(B) Table 2 to 40 ~~CFRC.F.R.~~ Part 60 Subpart DDDD applies only to CISWI units ~~constructed after November 30, 1999 but prior to June 4, 2010, and~~ that were subject to

~~the Federal plan in 40 CFRC.F.R. Part 620 Subpart III~~~~CCCC~~ (Federal Plan Requirements Standards of Performance for Commercial and Industrial Solid Waste Incineration Units) prior to June 4, 2010.

(C) In Table 2 to 40 C.F.R. Part 60 Subpart DDDD, substitute “February 7, 2018” for “[DATE TO BE SPECIFIED IN STATE PLAN]”.

(CD) In Tables 2 and 6 through 9 to 40 CFRC.F.R. Part 60 Subpart DDDD, substitute “three years after the effective date of State plan approval or February 7, 2018, whichever is earlier” for “[DATE TO BE SPECIFIED IN STATE PLAN]”.

(j) Operating limits. Owners and operators of affected CISWI units must comply with 40 CFRC.F.R. 60.2675.

(k) Site-specific operating limit. Owners and operators of affected CISWI units may request a site-specific operating limit in accordance with 40 CFRC.F.R. 60.2680.

(l) Compliance demonstration. Owners and operators of affected CISWI units must demonstrate compliance with this rule in accordance with 40 CFRC.F.R. 60.2690 through 60.2800.

(A) In 40 CFRC.F.R. 60.2720(a)(1), substitute “DEQ or the EPA Administrator may request” for “The Administrator may request”.

(B) In 40 CFRC.F.R. 60.2720(a)(3), substitute “request by DEQ or the EPA Administrator” for “request by the Administrator”.

(C) In 40 CFRC.F.R. 60.2725(a), substitute “DEQ or the EPA Administrator may request” for “The Administrator may request”.

(D) In 40 CFRC.F.R. 60.2730(n)(1) and (n)(2), substitute “Notify DEQ” for “Notify the Administrator”.

(E) In 40 CFRC.F.R. 60.2730(n)(4), substitute “notification to DEQ” for “notification to the Administrator”.

(F) In 40 CFRC.F.R. 60.2745, substitute “DEQ” for “the Administrator”.

(G) In 40 CFRC.F.R. 60.2785(a)(2), (a)(2)(iii), and (b), substitute “DEQ” for “the Administrator”.

(H) In 40 CFRC.F.R. 60.2795(a), (b)(1)(ii) and (b)(2)(ii), substitute “DEQ and the EPA Administrator” for “the Administrator”.

(I) In 40 CFRC.F.R. 60.2800, substitute “DEQ” for “the Administrator”.

(7) Requirements for air curtain incinerators.

(a) An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

(b) Increments of Progress. ~~If planning to achieve compliance more than 1 year following the effective date of State plan approval, an~~The owner or operator must meet the following increments of progress:

(A) Submit a final control plan by ~~two years after the effective date of State plan approval or February~~August 7, 2017, ~~whichever is earlier~~, and

(B) Achieve final compliance by ~~three years after the effective date of State plan approval or February~~ 7, 2018, ~~whichever is earlier~~.

(c) Notifications of achievement of increments of progress. Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment. The notification of achievement of increments of progress must include the following three items:

(A) Notification that the increment of progress has been achieved.

(B) Any items required to be submitted with each increment of progress (see subsection (7)(d) of this rule).

(C) Signature of the owner or operator of the incinerator.

(c) Failure to meet an increment of progress. If failing to meet an increment of progress, the owner or operator must submit a notification to DEQ and the EPA Administrator postmarked within 10 business days after the date for that increment of progress. The owner or operator must inform DEQ and the EPA Administrator of the failure to meet the increment, and must continue to submit reports each subsequent calendar month until the increment of progress is met.

(d) Complying with the increment of progress for submittal of a control plan. For the control plan increment of progress, the owner or operator must satisfy the following two requirements:

(A) Submit the final control plan, ~~that~~ including a description of any devices for air pollution control and any process changes that will be used to comply with the emission limitations and other requirements of this rule.

(B) Maintain an onsite copy of the final control plan.

(e) Complying with the increment of progress for achieving final compliance. For the final compliance increment of progress, the owner or operator must complete all process changes and retrofit construction of control devices, as specified in the final control plan,

so that, if the affected incinerator is brought online, all necessary process changes and air pollution control devices would operate as designed.

(f) Closing an air curtain incinerator.

(A) If closing an air curtain incinerator but reopening it prior to the final compliance date, the owner or operator must meet the increments of progress in subsection (78)(b) of this rule.

(B) If closing an air curtain incinerator but restarting it after the final compliance date, the owner or operator must complete emission control retrofits and meet the emission limitations on the date the incinerator restarts operation.

(g) If planning to close an air curtain incinerator rather than comply with this rule, the owner or operator must submit a closure notification, including the date of closure, to DEQ and the EPA Administrator by the date the final control plan is due.

(h) Emission limitations. After the date the initial stack test is required or completed (whichever is earlier, the owner or operator of the affected air curtain incinerator must comply with the following: 40 CFR 60.2860.

(A) Maintain opacity to less than or equal to 10 percent opacity (as determined by the average of three 1- hour blocks consisting of ten 6-minute average opacity values), except as described in paragraph (7)(h)(B) of this rule; and

(B) Maintain opacity to less than or equal to 35 percent opacity (as determined by the average of three 1- hour blocks consisting of ten 6-minute average opacity values) during the startup period that is within the first 30 minutes of operation.

(i) Compliance demonstration. The owners or operator of the affected air curtain incinerator must demonstrate compliance with this rule as follows and in accordance with 40 ~~CFR~~C.F.R. 60.2865 and 60.2870. In 40 ~~CFR~~C.F.R. 60.2870(a) and (b), substitute “DEQ or the EPA Administrator” for “the Administrator”.

(A) Use Method 9 of appendix A of 40 C.F.R. Part 60 to determine compliance with the opacity limitation.

(B) Conduct an initial test for opacity as specified in 40 C.F.R. 60.8 no later than 180 days after the owner or operator’s final compliance date.

(C) After the initial test for opacity, conduct annual tests no more than 12 calendar months following the date of the owner or operator’s previous test.

(89) Permitting requirements. CISWI units and air curtain incinerators subject to this rule must operate pursuant to a permit issued under the ~~comply with~~ Oregon Title V Operating Permit program requirements as specified in OAR 340 divisions 218 and 220.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

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

DIVISION 238

NEW SOURCE PERFORMANCE STANDARDS

340-238-0040, Definitions

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

(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 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, 2016~~5~~ edition Code of Federal Regulations ~~and, unless otherwise identified otherwise expressly identified, refers to the July 1, 2013 edition.~~

(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. ~~A landfill is considered closed after meeting the criteria of 40 CFR 258.60.~~

(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.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 8-2015, f. & cert. ef. 4-17-15

340-238-0060.

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, ~~PPP~~ through WWW, AAAA, CCCC, EEEE, KKKK, LLLL, and 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, ~~and 40 C.F.R. Part 60 Subpart JJJJ is 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;

- (~~vvuu~~) Subpart PP — Ammonium sulfate manufacture;
- (~~wwvv~~) Subpart QQ — Graphic arts industry: publication rotogravure printing;
- (~~xxww~~) Subpart RR — pressure sensitive tape and label surface coating operations;
- (~~yyxx~~) Subpart SS — Industrial surface coating: large appliances;
- (~~zzyy~~) Subpart TT — Metal coil surface coating;
- (~~aaazz~~) Subpart UU — Asphalt processing and asphalt roofing manufacture;
- (~~bbbaaa~~) Subpart VV — Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;
- (~~cccbbb~~) Subpart VVa — Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;
- (~~dddeee~~) Subpart WW — Beverage can surface coating industry;
- (~~eeeddd~~) Subpart XX — Bulk gasoline terminals;
- (~~fffeee~~) Subpart BBB — Rubber tire manufacturing industry;
- (~~gggfff~~) Subpart DDD — Volatile organic compound (VOC) emissions for the polymer manufacture industry;
- (~~hhhggg~~) Subpart FFF — Flexible vinyl and urethane coating and printing;
- (~~iiihhh~~) Subpart GGG — Equipment leaks of VOC in petroleum refineries;
- (~~jjjiii~~) Subpart GGGa — Equipment leaks of VOC in petroleum refineries;
- (~~kkkjii~~) Subpart HHH — Synthetic fiber production facilities;
- (~~lllkkk~~) Subpart III — Volatile organic compound (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) air oxidation unit processes;
- (~~mmmmH~~) Subpart JJJ — Petroleum dry cleaners;
- (~~nnnnmm~~) Subpart KKK — Equipment leaks of VOC from onshore natural gas processing plants;
- (~~ooooH~~) Subpart LLL — Onshore natural gas processing; SO₂ emissions;
- (~~pppooo~~) Subpart NNN — Volatile organic compound (VOC) emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations;
- (~~qqqppp~~) Subpart OOO — Nonmetallic mineral processing plants (adopted by reference for major sources only);

- (~~rrrqqq~~) Subpart PPP — Wool fiberglass insulation manufacturing plants;
- (~~sssttt~~) Subpart QQQ — VOC emissions from petroleum refinery wastewater systems;
- (~~tttsss~~) Subpart RRR — Volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes;
- (~~uuuttt~~) Subpart SSS — Magnetic tape coating facilities;
- (~~vvvtttt~~) Subpart TTT — Industrial surface coating: surface coating of plastic parts for business machines;
- (~~wwwvvv~~) Subpart UUU — Calciners and dryers in mineral industries;
- (~~xxxwww~~) Subpart VVV — Polymeric coating of supporting substrates facilities;
- (~~vyvxxx~~) Subpart WWW — Municipal solid waste landfills, as clarified by OAR 340-238-0100;
- (~~zzzyyy~~) Subpart AAAA — Small municipal waste combustion units;
- (~~aaaazzz~~) Subpart CCCC — Commercial and industrial solid waste incineration units;
- (~~bbbbb~~) Subpart EEEE — Other solid waste incineration units;
- (~~ccccbbbb~~) 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**);
- (~~ddddeeee~~) 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**);
- (~~eeeeeeee~~) Subpart KKKK — Stationary combustion turbines;
- (~~ffffeeee~~) Subpart LLLL — Sewage sludge incineration units;
- (~~ggggffff~~) Subpart OOOO — Crude oil and natural gas production, transmission and distribution;
- (hhhh) Subpart OOOOa — Crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after September 18, 2015;
- (iiii) Subpart TTTT — Greenhouse gas emissions for electric generating units.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; sections (1) thru (12) of this rule renumbered to 340-025-0550 thru 340-025-0605; DEQ 22-1982, f. & ef.
Item G 000037

10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0535; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 8-2015, f. & cert. ef. 4-17-15

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 OAR 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, 2016⁵ edition Code of Federal Regulations ~~and, unless otherwise expressly otherwise identified identified, refers to the July 1, 2013 edition.~~
- (5) "Construct a major source" means to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP_s; 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 pursuant to ~~section~~ 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 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~~under it. 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 ~~pursuant to~~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 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.]

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

Stats. Implemented: ORS 468A.040

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

340-244-0220, 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 ~~MM, OO~~ through YY, CCC through EEE, GGG through JJJ, LLL through RRR, TTT through VVV, XXX, AAAA, CCCC through KKKK, MMMM through YYYY,**

AAAAA through NNNNN, PPPPP through UUUUU, WWWWW , YYYYY, ZZZZZ, BBBBBB, DDDDDD through ~~HHHHHH~~FFFFF, 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 JJJJJJ are by this reference adopted and incorporated herein only for sources required to have a Title V or ACDP permit.

(2) Where "Administrator" or "EPA" appears in 40 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 ~~CFR~~C.F.R. Part 63 Subparts adopted by this rule are titled as follows:

- (a) Subpart A — General Provisions;

- (b) Subpart F — SOCM I;
- (c) Subpart G — SOCM I — Process Vents, Storage Vessels, Transfer Operations, and Wastewater;
- (d) Subpart H — SOCM I — 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;
- (~~ggff~~) Subpart PP — Containers;
- (~~hhgg~~) Subpart QQ — Surface Impoundments;
- (~~iihh~~) Subpart RR — Individual Drain Systems;
- (~~jjii~~) Subpart SS — Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process;
- (~~kkjj~~) Subpart TT — Equipment Leaks — Control Level 1;
- (~~llkk~~) Subpart UU — Equipment Leaks — Control Level 2;
- (~~mmll~~) Subpart VV — Oil-Water Separators and Organic-Water Separators;
- (~~nnmm~~) Subpart WW — Storage Vessels (Tanks) — Control Level 2;
- (~~oonn~~) Subpart XX — Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations;
- (~~ppoo~~) Subpart YY — Generic Maximum Achievable Control Technology Standards;
- (~~qqpp~~) Subpart CCC — Steel Pickling — HCl Process Facilities and Hydrochloric Acid Regeneration Plants;
- (~~rrqq~~) Subpart DDD — Mineral Wool Production;
- (~~ssrr~~) Subpart EEE — Hazardous Waste Combustors;

- (~~ttss~~) Subpart GGG — Pharmaceuticals Production;
- (~~uu#~~) Subpart HHH — Natural Gas Transmission and Storage Facilities;
- (~~vvuu~~) Subpart III — Flexible Polyurethane Foam Production;
- (~~wwvv~~) Subpart JJJ — Group IV Polymers and Resins;
- (~~xxww~~) Subpart LLL — Portland Cement Manufacturing Industry;
- (~~yyxx~~) Subpart MMM — Pesticide Active Ingredient Production;
- (~~zzyy~~) Subpart NNN — Wool Fiberglass Manufacturing;
- (~~aaazz~~) Subpart OOO — Manufacture of Amino/Phenolic Resins;
- (~~bbbaaa~~) Subpart PPP — Polyether Polyols Production;
- (~~cccbbb~~) Subpart QQQ — Primary Copper Smelting;
- (~~dddeee~~) Subpart RRR — Secondary Aluminum Production;
- (~~eeeddd~~) Subpart TTT — Primary Lead Smelting;
- (~~fffeee~~) Subpart UUU — Petroleum Refineries — Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units;
- (~~gggfff~~) Subpart VVV — Publicly Owned Treatment Works;
- (~~hhhgge~~) Subpart XXX — Ferroalloys Production: Ferromanganese and Silicomanganese;
- (~~iiihhh~~) Subpart AAAA — Municipal Solid Waste Landfills;
- (~~jjjjii~~) Subpart CCCC — Manufacturing of Nutritional Yeast;
- (~~kkkjii~~) Subpart DDDD — Plywood and Composite Wood Products;
- (~~lllkkk~~) Subpart EEEE — Organic Liquids Distribution (non-gasoline);
- (~~mmmmH~~) Subpart FFFF — Miscellaneous Organic Chemical Manufacturing;
- (~~nnnnmmmm~~) Subpart GGGG — Solvent Extraction for Vegetable Oil Production;
- (~~ooooann~~) Subpart HHHH — Wet Formed Fiberglass Mat Production;
- (~~pppooo~~) Subpart IIII — Surface Coating of Automobiles and Light-Duty Trucks;
- (~~qqqppp~~) Subpart JJJJ — Paper and Other Web Coating;

- (~~rrrqqq~~) Subpart KKKK — Surface Coating of Metal Cans;
- (~~sssttt~~) Subpart MMMM — Surface Coating of Miscellaneous Metal Parts and Products;
- (~~ttssss~~) Subpart NNNN — Surface Coating of Large Appliances;
- (~~uuuttt~~) Subpart OOOO — Printing, Coating, and Dyeing of Fabrics and Other Textiles;
- (~~vvvuuu~~) Subpart PPPP — Surface Coating of Plastic Parts and Products;
- (~~wwwvvv~~) Subpart QQQQ — Surface Coating of Wood Building Products;
- (~~xxxwww~~) Subpart RRRR — Surface Coating of Metal Furniture;
- (~~yyyxxx~~) Subpart SSSS — Surface Coating of Metal Coil;
- (~~zzzyyy~~) Subpart TTTT — Leather Finishing Operations;
- (~~aaaazzz~~) Subpart UUUU — Cellulose Production Manufacturing;
- (~~bbbbaaaa~~) Subpart VVVV — Boat Manufacturing;
- (~~ccccbbbb~~) Subpart WWWW — Reinforced Plastics Composites Production;
- (~~ddddeeee~~) Subpart XXXX — Rubber Tire Manufacturing;
- (~~eeeedddd~~) Subpart YYYY — Stationary Combustion Turbines;
- (~~ffffeeee~~) Subpart ZZZZ — Reciprocating Internal Combustion Engines (adopted only for sources required to have a Title V or ACDP permit);
- (~~ggggffff~~) Subpart AAAAAA — Lime Manufacturing;
- (~~hhhhgggg~~) Subpart BBBB — Semiconductor Manufacturing;
- (~~iiiihhhh~~) Subpart CCCCC — Coke Ovens: Pushing, Quenching & Battery Stacks;
- (~~jjjjtttt~~) Subpart DDDDD — Industrial, Commercial, and Institutional Boilers and Process Heaters;
- (~~kkkkjjjj~~) Subpart EEEEE — Iron and Steel Foundries;
- (~~llllkkkk~~) Subpart FFFFF — Integrated Iron and Steel Manufacturing Facilities;
- (~~mmmmllll~~) Subpart GGGGG — Site Remediation;
- (~~nnnnmmmm~~) Subpart HHHHH — Misc. Coating Manufacturing;

- (~~oooo~~~~nnnn~~) Subpart IIIII — Mercury Cell Chlor-Alkali Plants;
- (~~pppp~~~~oooo~~) Subpart JJJJJ — Brick and Structural Clay Products Manufacturing;
- (~~qqqq~~~~pppp~~) Subpart KKKKK — Clay Ceramics Manufacturing;
- (~~rrrr~~~~qqqq~~) Subpart LLLLL — Asphalt Processing & Asphalt Roofing Manufacturing;
- (~~ssss~~~~rrrr~~) Subpart MMMMM — Flexible Polyurethane Foam Fabrication Operations;
- (~~tttt~~~~ssss~~) Subpart NNNNN — Hydrochloric Acid Production;
- (~~uuuu~~~~tttt~~) Subpart PPPPP — Engine Tests Cells/Stands;
- (~~vvvv~~~~uuuu~~) Subpart QQQQQ — Friction Materials Manufacturing Facilities;
- (~~wwwv~~~~vvvv~~) Subpart RRRRR — Taconite Iron Ore Processing;
- (~~xxxx~~~~wwwv~~) Subpart SSSSS — Refractory Products Manufacturing;
- (~~yyyy~~~~xxxx~~) Subpart TTTTT — Primary Magnesium Refining;
- (~~zzzz~~~~yyyy~~) Subpart UUUUU — Coal- and Oil-Fired Electric Utility Steam Generating Units;
- (~~aaaa~~~~zzzz~~) Subpart WWWWW — Area Sources: Hospital Ethylene Oxide Sterilization;
- (~~bbbb~~~~aaaa~~) Subpart YYYYY — Area Sources: Electric Arc Furnace Steelmaking Facilities;
- (~~cccc~~~~bbbb~~) Subpart ZZZZZ — Area Sources: Iron and Steel Foundries;
- (~~dddd~~~~cccc~~) Subpart BBBBB — Area Sources: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities;
- (~~eeee~~~~dddd~~) Subpart DDDDD — Area Sources: Polyvinyl Chloride and Copolymers Production;
- (~~ffff~~~~eeee~~) Subpart EEEEE — Area Sources: Primary Copper Smelting;
- (~~gggg~~~~ffff~~) Subpart FFFFF — Area Sources: Secondary Copper Smelting;
- (~~hhhh~~~~gggg~~) Subpart GGGGG — Area Sources: Primary Nonferrous Metals — Zinc, Cadmium, and Beryllium;
- (~~iiii~~~~hhhh~~) Subpart HHHHH — Area Sources: Paint Stripping and Miscellaneous Surface Coating Operations;

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

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

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

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

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

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

(~~pppppoooo~~) Subpart QQQQQQ — Area Sources: Wood Preserving;

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

(~~rrrrrqqqq~~) Subpart SSSSSS — Area Sources: Glass Manufacturing;

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

(~~ttttsssss~~) Subpart VVVVVV — Area Sources: Chemical Manufacturing;

(~~uuuuu####~~) Subpart WWWWWW — Area Source: Plating and Polishing Operations;

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

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

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

(~~yyyyyxxxxx~~) Subpart AAAAAA — Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing;

(~~zzzzzyyyyy~~) Subpart BBBBBB — Area Sources: Chemical Preparations Industry;

(~~aaaaazzzzz~~) Subpart CCCCCC — Area Sources: Paints and Allied Products Manufacturing;

(~~bbbbbaaaaa~~) Subpart DDDDDD — Area Sources: Prepared Feeds Manufacturing;

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

(~~dddddd~~) Subpart HHHHHHH — Polyvinyl Chloride and Copolymers Production.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 230

INCINERATOR REGULATIONS

340-230-0500, Municipal Waste Combustors: Emission Standards for Commercial and Industrial Solid Waste Incineration Units

(1) Purpose. This rule implements the emission guidelines and compliance schedules for the control of emissions from commercial and industrial solid waste incineration (CISWI) units.

(2) Definitions. Terms used in this rule are as defined in 40 C.F.R. 60.2875. In 40 C.F.R. 60.2875, substitute “is defined by the EPA administrator” for “is defined by the Administrator” and substitute “established by the EPA Administrator by rule” for “established by the Administrator by rule”.

(3) Compliance schedule.

(a) CISWI units in the incinerator subcategory and air curtain incinerators that commenced construction on or before November 30, 1999, must achieve final compliance not later than April 20, 2017.

(b) CISWI units in the incinerator subcategory and air curtain incinerators, that commenced construction after November 30, 1999, but on or before June 4, 2010 or that commenced reconstruction or modification on or after June 1, 2001 but not later than August 7, 2013, and for CISWI units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories, that commenced construction before June 4, 2010, must achieve final compliance as quickly as possible but not later than February 7, 2018.

(4) Affected CISWI units.

(a) Incineration units that meet all of the following three criteria are affected CISWI units:

(A) CISWI units that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010 but no later than August 7, 2013.

(B) Incineration units that meet the definition of a CISWI unit in 40 C.F.R. 60.2875.

(C) Incineration units not exempt under section (5) of this rule.

(b) If the owner or operator of a CISWI unit or air curtain incinerator makes changes that meets the definition of modification or reconstruction on or after August 7, 2013, the CISWI unit becomes subject to 40 C.F.R. Part 60 Subpart CCCC and this rule no longer applies to that unit.

(c) If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with this rule, then 40 C.F.R. Part 60 Subpart

CCCC does not apply to that unit. Such changes do not qualify as modifications or reconstructions under 40 C.F.R. Part 60 Subpart CCCC.

(5) Exempt units. The types of units in subsections (5)(a) through (k) of this rule are exempt from this rule, but some units are required to provide notifications. Air curtain incinerators are exempt from the requirements of this rule except for the requirements in sections (7) and (8) of this rule.

(a) Pathological waste incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low level radioactive waste, and/or chemotherapeutic waste as defined in 40 C.F.R. 60.2875 if the owner or operator meets the following two requirements:

(A) Notify DEQ and EPA Administrator that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(b) Municipal waste combustion units that are subject to 40 C.F.R. Part 60 Subpart Cb (Emission Guidelines and Compliance Times for Large Municipal Combustors); Ea (Standards of Performance for Municipal Waste Combustors); Eb (Standards of Performance for Large Municipal Waste Combustors); AAAA (Standards of Performance for Small Municipal Waste Combustion Units); or BBBB (Emission Guidelines for Small Municipal Waste Combustion Units).

(c) Medical waste incineration units regulated under 40 C.F.R. Part 60 Subpart Ca (Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators) or Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996).

(d) Small power production facilities that meet the following four requirements:

(A) The unit qualifies as a small power-production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. § 796(17)(C)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(C) The owner or operator submits documentation to DEQ and the EPA Administrator notifying DEQ and EPA that the qualifying small power production facility is combusting homogenous waste.

(D) The owner or operator maintains the records specified in 40 C.F.R. 60.2740(v).

(e) Cogeneration facilities. Units that meet the following three requirements:

(A) The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. § 796(18)(B)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) The owner or operator submits documentation to DEQ and the EPA Administrator notifying DEQ and EPA that the qualifying cogeneration facility is combusting homogenous waste.

(D) The owner or operator maintains the records specified in 40 C.F.R. 60.2740(w).

(f) Hazardous waste combustion units for which the owner or operator is required to get a permit under section 3005 of the Solid Waste Disposal Act.

(g) Materials recovery units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters.

(h) Air curtain incinerators that burn only the following materials are only required to meet the requirements under section (8) of this rule and under "Air Curtain Incinerators" (section (7) of this rule):

(A) 100 percent wood waste.

(B) 100 percent clean lumber.

(C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(i) Sewage treatment plants regulated under 40 C.F.R. Part 60 Subpart O (Standards of Performance for Sewage Treatment Plants).

(j) Sewage sludge incineration units combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter that are subject to 40 C.F.R. Part 60 Subpart LLLL (Standards of Performance for Sewage Sludge Incineration Units) or 40 C.F.R. Part 60 Subpart MMMM (Emission Guidelines for Sewage Sludge Incineration Units).

(k) Other solid waste incineration units that are subject to 40 C.F.R. Part 60 Subpart EEEE (Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or after June 16, 2006) or 40 C.F.R. Part 60 Subpart FFFF (Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004).

(6) Requirements for CISWI units.

(a) Increments of Progress and Achieving Final Compliance. The owner or operator of an affected CISWI unit must meet the following increments of progress:

(A) Submit a final control plan by August 7, 2017, and

(B) Achieve final compliance by February 7, 2018.

(b) Notifications of achievement of increments of progress. Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment. The notification of achievement of increments of progress must include the following three items:

(A) Notification that the increment of progress has been achieved.

(B) Any items required to be submitted with each increment of progress.

(C) Signature of the owner or operator of the CISWI unit or air curtain incinerator.

(c) Failure to meet an increment of progress. If failing to meet an increment of progress, the owner or operator must submit a notification to DEQ and the EPA Administrator postmarked within 10 business days after the date for that increment of progress. The owner or operator must inform DEQ and the EPA Administrator of the failure to meet the increment, and must continue to submit reports each subsequent calendar month until the increment of progress is met.

(d) Complying with the increment of progress for submittal of a control plan. For the control plan increment of progress, the owner or operator must satisfy the following two requirements:

(A) Submit the final control plan that includes the following five items:

(i) A description of the devices for air pollution control and process changes that will be used to comply with the emission limitations and other requirements of this rule.

(ii) The type(s) of waste to be burned.

(iii) The maximum design waste burning capacity.

(iv) The anticipated maximum charge rate.

(v) If applicable, the petition for site-specific operating limits under subsection (6)(k) of this rule.

(B) Maintain an onsite copy of the final control plan.

(e) Complying with the increment of progress for achieving final compliance. For the final compliance increment of progress, the owner or operator must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected CISWI unit is brought online, all necessary process changes and air pollution control devices would operate as designed.

(f) Closing a CISWI unit.

(A) If closing a CISWI unit but restarting it prior to the final compliance date, the owner or operator must meet the increments of progress.

(B) If closing a CISWI unit but restarting it after the final compliance date, the owner or operator must complete emission control retrofits and meet the emission limitations and operating limits on the date the unit restarts operation.

(C) If planning to close a CISWI unit rather than comply with this rule, the owner or operator must submit a closure notification, including the date of closure, to DEQ and the EPA Administrator by the date the final control plan is due.

(g) Waste management plan. Owners and operators of affected CISWI units must comply with 40 C.F.R. 60.2620 through 60.2630. In 40 C.F.R. 60.2625, substitute "OAR 340-230-0500(6)(a)(A)" for "table 1 of this subpart".

(h) Operator training and qualification. Owners or operators of affected CISWI units must comply with 40 C.F.R. 60.2635 through 60.2665. In 40 C.F.R. 60.2665(b)(1), substitute "DEQ" for "the Administrator". In 40 C.F.R. 60.2665(b)(2) and (b)(2)(ii), substitute "EPA Administrator" for "Administrator".

(i) Emission limitations. Owners and operators of affected CISWI units must comply with 40 C.F.R. 60.2670 with the following changes:

(A) In 40 C.F.R. 60.2670(a), substitute "in OAR 340-230-0500(3)" for "under the approved state plan, federal plan, or delegation, as applicable".

(B) Table 2 to 40 C.F.R. Part 60 Subpart DDDD applies only to CISWI units that were subject to the Federal plan in 40 C.F.R. Part 62 Subpart III (Federal Plan Requirements for Commercial and Industrial Solid Waste Incineration Units) prior to June 4, 2010.

(C) In Table 2 to 40 C.F.R. Part 60 Subpart DDDD, substitute "February 7, 2018" for "[DATE TO BE SPECIFIED IN STATE PLAN]".

(D) In Tables 6 through 9 to 40 C.F.R. Part 60 Subpart DDDD, substitute "February 7, 2018" for "[DATE TO BE SPECIFIED IN STATE PLAN]".

(j) Operating limits. Owners and operators of affected CISWI units must comply with 40 C.F.R. 60.2675.

(k) Site-specific operating limit. Owners and operators of affected CISWI units may request a site-specific operating limit in accordance with 40 C.F.R. 60.2680.

(l) Compliance demonstration. Owners and operators of affected CISWI units must demonstrate compliance with this rule in accordance with 40 C.F.R. 60.2690 through 60.2800.

(A) In 40 C.F.R. 60.2720(a)(1), substitute "DEQ or the EPA Administrator may request" for "The Administrator may request".

(B) In 40 C.F.R. 60.2720(a)(3), substitute "request by DEQ or the EPA Administrator" for "request by the Administrator".

(C) In 40 C.F.R. 60.2725(a), substitute “DEQ or the EPA Administrator may request” for “The Administrator may request”.

(D) In 40 C.F.R. 60.2730(n)(1) and (n)(2), substitute “Notify DEQ” for “Notify the Administrator”.

(E) In 40 C.F.R. 60.2730(n)(4), substitute “notification to DEQ” for “notification to the Administrator”.

(F) In 40 C.F.R. 60.2745, substitute “DEQ” for “the Administrator”.

(G) In 40 C.F.R. 60.2785(a)(2), (a)(2)(iii), and (b), substitute “DEQ” for “the Administrator”.

(H) In 40 C.F.R. 60.2795(a), (b)(1)(ii) and (b)(2)(ii), substitute “DEQ and the EPA Administrator” for “the Administrator”.

(I) In 40 C.F.R. 60.2800, substitute “DEQ” for “the Administrator”.

(7) Requirements for air curtain incinerators.

(a) An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

(b) Increments of Progress. The owner or operator must meet the following increments of progress:

(A) Submit a final control plan by August 7, 2017, and

(B) Achieve final compliance by February 7, 2018.

(c) Notifications of achievement of increments of progress. Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment. The notification of achievement of increments of progress must include the following three items:

(A) Notification that the increment of progress has been achieved.

(B) Any items required to be submitted with each increment of progress (see subsection (7)(d) of this rule).

(C) Signature of the owner or operator of the incinerator.

(c) Failure to meet an increment of progress. If failing to meet an increment of progress, the owner or operator must submit a notification to DEQ and the EPA Administrator postmarked within 10 business days after the date for that increment of progress. The

owner or operator must inform DEQ and the EPA Administrator of the failure to meet the increment, and must continue to submit reports each subsequent calendar month until the increment of progress is met.

(d) Complying with the increment of progress for submittal of a control plan. For the control plan increment of progress, the owner or operator must satisfy the following two requirements:

(A) Submit the final control plan, including a description of any devices for air pollution control and any process changes that will be used to comply with the emission limitations and other requirements of this rule.

(B) Maintain an onsite copy of the final control plan.

(e) Complying with the increment of progress for achieving final compliance. For the final compliance increment of progress, the owner or operator must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected incinerator is brought online, all necessary process changes and air pollution control devices would operate as designed.

(f) Closing an air curtain incinerator.

(A) If closing an air curtain incinerator but reopening it prior to the final compliance date, the owner or operator must meet the increments of progress in subsection (7)(b) of this rule.

(B) If closing an air curtain incinerator but restarting it after the final compliance date, the owner or operator must complete emission control retrofits and meet the emission limitations on the date the incinerator restarts operation.

(g) If planning to close an air curtain incinerator rather than comply with this rule, the owner or operator must submit a closure notification, including the date of closure, to DEQ and the EPA Administrator by the date the final control plan is due.

(h) Emission limitations. After the date the initial stack test is required or completed (whichever is earlier, the owner or operator of the affected air curtain incinerator must comply with the following:

(A) Maintain opacity to less than or equal to 10 percent opacity (as determined by the average of three 1- hour blocks consisting of ten 6-minute average opacity values), except as described in paragraph (7)(h)(B) of this rule; and

(B) Maintain opacity to less than or equal to 35 percent opacity (as determined by the average of three 1- hour blocks consisting of ten 6-minute average opacity values) during the startup period that is within the first 30 minutes of operation.

(i) Compliance demonstration. The owners or operator of the affected air curtain incinerator must demonstrate compliance with this rule as follows and in accordance with 40 C.F.R. 60.2870. In 40 C.F.R. 60.2870(a) and (b), substitute "DEQ or the EPA Administrator" for "the Administrator".

(A) Use Method 9 of appendix A of 40 C.F.R. Part 60 to determine compliance with the opacity limitation.

(B) Conduct an initial test for opacity as specified in 40 C.F.R. 60.8 no later than 180 days after the owner or operator's final compliance date.

(C) After the initial test for opacity, conduct annual tests no more than 12 calendar months following the date of the owner or operator's previous test.

(8) Permitting requirements. CISWI units and air curtain incinerators subject to this rule must operate pursuant to a permit issued under the Oregon Title V Operating Permit program requirements as specified in OAR 340 divisions 218 and 220.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

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

DIVISION 238

NEW SOURCE PERFORMANCE STANDARDS

340-238-0040, Definitions

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

(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 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, 2016 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.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 8-2015, f. & cert. ef. 4-17-15

340-238-0060, 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 WWW, 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; SO₂ 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 AAAA — Small municipal waste combustion units;

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

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

(cccc) 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**);

(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**);

(eeee) Subpart KKKK — Stationary combustion turbines;

(ffff) Subpart LLLL — Sewage sludge incineration units;

(gggg) Subpart OOOO — Crude oil and natural gas production, transmission and distribution;

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

(iiii) Subpart TTTT — Greenhouse gas emissions for electric generating units.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; sections (1) thru (12) of this rule renumbered to 340-025-0550 thru 340-025-0605; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0535; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 8-2015, f. & cert. ef. 4-17-15

DIVISION 244

OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM

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 OAR 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, 2016 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 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 under it. 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 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.]

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

Stats. Implemented: ORS 468A.040

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

340-244-0220, 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 YYYYY, AAAAA through NNNN, PPPP through UUUU, WWWW, YYYYY, ZZZZ, BBBB, DDDDD through FFFFF, LLLLLL through TTTTT, VVVVV through EEEEE, and HHHHHH** 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 — SOCMI;
- (c) Subpart G — SOCMI — Process Vents, Storage Vessels, Transfer Operations, and Wastewater;
- (d) Subpart H — SOCMI — Equipment Leaks;
- (e) Subpart I — Certain Processes Subject to the Negotiated Regulation for Equipment Leaks;
- (f) Subpart J — Polyvinyl Chloride and Copolymers Production;
- (g) Subpart L — Coke Oven Batteries;
- (h) Subpart M — Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;
- (i) Subpart N — Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;
- (j) Subpart O — Ethylene Oxide Emissions Standards for Sterilization Facilities;
- (k) Subpart Q — Industrial Process Cooling Towers;
- (l) Subpart R — Gasoline Distribution (Bulk Gasoline Terminals and Pipeline Breakout Stations);
- (m) Subpart S — Pulp and Paper Industry;
- (n) Subpart T — Halogenated Solvent Cleaning;
- (o) Subpart U — Group I Polymers and Resins;
- (p) Subpart W — Epoxy Resins and Non-Nylon Polyamides Production;
- (q) Subpart X — Secondary Lead Smelting;
- (r) Subpart Y — Marine Tank Vessel Loading Operations;
- (s) Subpart AA — Phosphoric Acid Manufacturing Plants;
- (t) Subpart BB — Phosphate Fertilizer Production Plants;
- (u) Subpart CC — Petroleum Refineries;

- (v) Subpart DD — Off-Site Waste and Recovery Operations;
- (w) Subpart EE — Magnetic Tape Manufacturing Operations;
- (x) Subpart GG — Aerospace Manufacturing and Rework Facilities;
- (y) Subpart HH — Oil and Natural Gas Production Facilities;
- (z) Subpart II — Shipbuilding and Ship Repair (Surface Coating);
- (aa) Subpart JJ — Wood Furniture Manufacturing Operations;
- (bb) Subpart KK — Printing and Publishing Industry;
- (cc) Subpart LL — Primary Aluminum Reduction Plants;
- (dd) Subpart MM — Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-Chemical Pulp Mills;
- (ee) Subpart 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;
- (aaaa) Subpart UUUU — Cellulose Production Manufacturing;
- (bbbb) Subpart VVVV — Boat Manufacturing;
- (cccc) Subpart WWWW — Reinforced Plastics Composites Production;
- (dddd) Subpart XXXX — Rubber Tire Manufacturing;
- (eeee) Subpart YYYY — Stationary Combustion Turbines;
- (ffff) Subpart ZZZZ — Reciprocating Internal Combustion Engines (adopted only for sources required to have a Title V or ACDP permit);
- (gggg) Subpart AAAAA — Lime Manufacturing;
- (hhhh) Subpart BBBB — Semiconductor Manufacturing;
- (iiii) 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;

(wwwv) 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 ZZZZ — Area Sources: Iron and Steel Foundries;

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

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

(ffff) Subpart EEEEE — Area Sources: Primary Copper Smelting;

(gggg) Subpart FFFFF — Area Sources: Secondary Copper Smelting;

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

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

(jjjjj) 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;

(lllll) Subpart MMMMM — Area Sources: Carbon Black Production;

(mmmmm) Subpart NNNNN — Area Sources: Chemical Manufacturing: Chromium Compounds;

(nnnnn) Subpart OOOOO — Area Sources: Flexible Polyurethane Foam Production;

(ooooo) Subpart PPPPP — Area Sources: Lead Acid Battery Manufacturing;

(ppppp) Subpart QQQQQ — Area Sources: Wood Preserving;

(qqqqq) Subpart RRRRR — Area Sources: Clay Ceramics Manufacturing;

(rrrrr) Subpart SSSSS — Area Sources: Glass Manufacturing;

(sssss) Subpart TTTTT — Area Sources: Secondary Nonferrous Metals Processing;

(ttttt) Subpart VVVVV — Area Sources: Chemical Manufacturing;

(uuuuu) Subpart WWWWW — Area Source: Plating and Polishing Operations;

(vvvvv) Subpart XXXXX — Area Source: Nine Metal Fabrication and Finishing Source Categories;

(wwwww) Subpart YYYYY — Area Sources: Ferroalloys Production Facilities;

(xxxxx) Subpart ZZZZZ — Area Sources: Aluminum, Copper, and Other Nonferrous Foundries;

(yyyyy) Subpart AAAAAA — Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing;

(zzzzz) Subpart BBBBBB — Area Sources: Chemical Preparations Industry;

(aaaaa) Subpart CCCCCC — Area Sources: Paints and Allied Products Manufacturing;

(bbbbb) Subpart DDDDDD — Area Sources: Prepared Feeds Manufacturing;

(ccccc) Subpart EEEEE — Area Sources: Gold Mine Ore Processing and Production;

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

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

DRAFT



Department of Environmental Quality

Agency Headquarters

700 NE Multnomah, Suite 600

Portland, OR 97232

(503) 229-5696

FAX (503) 229-6124

TTY 711

June 1, 2017

Dennis McLerran
Regional Administrator
U.S. EPA Region 10
1200 Sixth Avenue
Seattle WA 98101

Dear Mr. McLerran,

On Mar. 16, 2016, EPA promulgated amendments to the emission guidelines for commercial and industrial solid waste incineration units (40 CFR part 60 subpart DDDD). Emission guidelines are not directly enforceable until they are implemented and enforced through either an EPA-approved state plan or a promulgated federal plan.

Oregon DEQ therefore requests EPA approve the attached amended state plan implementing the emission guidelines for commercial and industrial solid waste incineration units. The attached amended plan fulfills the requirements in 40 CFR 60.2505 and 60.2515 for state plan submittal.

If you have any questions or require additional information, please contact Jerry Ebersole at (503) 229-6974 or by email at EBERSOLE.Gerald@deq.state.or.us.

Thank you for your attention on this matter.

Sincerely,

Leah Feldon
Deputy Director

cc: Karl Pepple, EPA Region X
Paul Koprowski, EPA Region X, Oregon Operations Office
Emil Hnidey, Oregon DEQ

OREGON AMENDED STATE PLAN TO IMPLEMENT THE EMISSION GUIDELINES FOR COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

Submitted to: The Environmental Protection Agency

By: The Oregon Department of Environmental Quality

June 2017

Air Quality Operations

700 NE Multnomah St.
Suite 600
Portland, OR 97232
Phone: 503-229-5696
800-452-4011
Fax: 503-229-5850
Contact: Jerry Ebersole
www.oregon.gov/DEQ

DEQ is a leader in
restoring, maintaining and
enhancing the quality of
Oregon's air, land and
water.



State of Oregon
Department of
Environmental
Quality

This report prepared by:

Oregon Department of Environmental Quality
700 NE Multnomah St. Suite 600
Portland, OR 97232
1-800-452-4011
www.oregon.gov/deq

Contact:
Jerry Ebersole
503-229-6974

Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.

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I. Overview

On Jun. 23, 2016, the Environmental Protection Agency promulgated amendments to the Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units (40 CFR part 60 subpart DDDD). Emission guidelines are not directly enforceable until they are implemented and enforced through either an EPA-approved state plan or a promulgated Federal Plan. This amended state plan implements the Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units in Oregon. This amended plan applies throughout Oregon, including in Lane County, where air quality laws are implemented and enforced by the Lane Regional Air Protection Agency.

II. State Plan Requirements

This amended plan fulfills the requirements in 40 CFR 60.2505 and 60.2515 for a state plan submittal.

III. Adoption and Submittal of State plan

§60.2505(c): *You must submit a state plan that meets the requirements of this subpart and contains the more stringent emission limit for the respective pollutant in table 6 of this subpart or table 1 of subpart CCCC of this part to EPA by February 7, 2014 for incinerators that commenced construction after November 30, 1999, but no later than June 4, 2010, or commenced modification or reconstruction after June 1, 2001 but no later than August 7, 2013.*

This amended plan meets the requirement that the Oregon Department of Environmental Quality submit a plan that meets the requirements of 40 CFR part 60 subpart DDDD and contains the emission limits for the respective pollutant in table 6 of 40 CFR part 60 subpart DDDD for incinerators that commenced construction after Nov. 30, 1999, but no later than June 4, 2010, or commenced modification or reconstruction after June 1, 2001 but no later than Aug. 7, 2013.

DEQ adopted the emission limits in table 6 of 40 CFR part 60 subpart DDDD by reference in OAR 340-230-0500(6)(i) for:

- Units in the incinerator subcategory and air curtain incinerators, that:
 - Commenced construction after November 30, 1999, but on or before June 4, 2010; or
 - Commenced reconstruction or modification on or after June 1, 2001, but not later than August 7, 2013.
- Units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories that commenced construction before June 4, 2010.

§60.2505(d): *You must submit a state plan to EPA that meets the requirements of this subpart and contains the emission limits in tables 7 through 9 of this subpart by February 7, 2014, for CISWI units other than incinerator units that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010 but no later than August 7, 2013.*

This amended plan meets the requirement that DEQ submit a plan that meets the requirements of this subpart and contains the emission limits in tables 7 through 9 of 40 CFR part 60 subpart

DDDD, for CISWI units other than incinerator units that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010 but no later than Aug. 7, 2013.

DEQ adopted the emission limits in tables 7 through 9 of 40 CFR part 60 subpart DDDD by reference in OAR 340-230-0500(6)(i) for:

- Units in the incinerator subcategory and air curtain incinerators, that:
 - Commenced construction after November 30, 1999, but on or before June 4, 2010; or
 - Commenced reconstruction or modification on or after June 1, 2001, but not later than August 7, 2013.
- Units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories that commenced construction before June 4, 2010.

IV. Inventory of affected CISWI units

§60.2515(a)(1): *Inventory of affected CISWI units, including those that have ceased operation but have not been dismantled.*

Source ID	Company	Facility Address	City	State	Zip	Fuel	Solid Waste
18-0020	Oil Re-Refining Company	1291 Laverne Ave	Klamath Falls	OR	97603	Propane, Recycled Oil	Oily solids (i.e., filters)
26-3048	Oil Re-Refining Company	4150 N Suttle Rd	Portland	OR	97217	Recycled Oil	Oily solids (i.e., filters)

V. Inventory of affected CISWI units

§60.2515(a)(2): *Inventory of emissions from affected CISWI units in your State.*

Cadmium (Cd) Emissions

Source ID	Unit	Emissions [mg/dscm]	Emission Standard [mg/dscm]	Potential Emissions (tons/yr)
18-0020			0.023	
26-3048			0.023	

Carbon Monoxide (CO) Emissions

Source ID	Unit	Emissions [ppmv]	Emission Standard [ppmv]	Potential Emissions (tons/yr)
18-0020			35	3.5
26-3048			35	0.8

Dioxins/Furans (total mass basis) Emissions

Source ID	Unit	Emissions [ng/dscm]	Emission Standard [ng/dscm]	Potential Emissions (tons/yr)
18-0020			2.9	

Source ID	Unit	Emissions [ng/dscm]	Emission Standard [ng/dscm]	Potential Emissions (tons/yr)
26-3048			2.9	

Dioxins/Furans (toxic equivalency basis) Emissions

Source ID	Unit	Emissions [ng/dscm]	Emission Standard [ng/dscm]	Potential Emissions (tons/yr)
18-0020			0.32	
26-3048			0.32	

Hydrogen Chloride (HCl) Emissions

Source ID	Unit	Emissions [ppmv]	Emission Standard [ppmv]	Potential Emissions (tons/yr)
18-0020			14	
26-3048			14	

Lead (Pb) Emissions

Source ID	Unit	Emissions [mg/dscm]	Emission Standard [mg/dscm]	Potential Emissions (tons/yr)
18-0020			0.096	
26-3048			0.096	

Mercury (Hg) Emissions

Source ID	Unit	Emissions [mg/dscm]	Emission Standard [mg/dscm]	Potential Emissions (tons/yr)
18-0020			0.0024	
26-3048			0.0024	

Oxides of Nitrogen (NOx) Emissions

Source ID	Unit	Emissions [ppmv]	Emission Standard [ppmv]	Potential Emissions (tons/yr)
18-0020			76	3.0
26-3048			76	2.9

Particulate Matter (PM) Emissions

Source ID	Unit	Emissions [mg/dscm]	Emission Standard [mg/dscm]	Potential Emissions (tons/yr)
18-0020			110	1.2
26-3048			110	2.3

Sulfur Dioxide (SO2) Emissions

Source ID	Unit	Emissions [mg/dscm]	Emission Standard [mg/dscm]	Potential Emissions (tons/yr)
18-0020			720	18
26-3048			720	6.7

VI. Compliance schedules

§60.2515(a)(3): *Compliance schedules for each affected CISWI unit.*

In accordance with 40 CFR 60.2535, OAR 340-230-0500(3) contains the following compliance schedule:

- CISWI units in the incinerator subcategory and air curtain incinerators that commenced construction on or before November 30, 1999, must achieve final compliance not later than April 20, 2017.
- CISWI units in the incinerator subcategory and air curtain incinerators, that commenced construction after November 30, 1999, but on or before June 4, 2010 or that commenced reconstruction or modification on or after June 1, 2001 but not later than August 7, 2013, and for CISWI units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories, that commenced construction before June 4, 2010, must achieve final compliance as quickly as possible but not later than February 7, 2018.

In accordance with 40 CFR 60.2575 through 60.2615, OAR 340-230-0500(6) contains the following increments of progress:

- Increments of Progress and Achieving Final Compliance. The owner or operator of an affected CISWI unit must meet the following increments of progress:
 - Submit a final control plan by August 7, 2017.
 - Achieve final compliance by February 7, 2018.
- Notifications of achievement of increments of progress. Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment. The notification of achievement of increments of progress must include the following three items:
 - Notification that the increment of progress has been achieved.
 - Any items required to be submitted with each increment of progress.
 - Signature of the owner or operator of the CISWI unit or air curtain incinerator.
- Failure to meet an increment of progress. If failing to meet an increment of progress, the owner or operator must submit a notification to DEQ or LRAPA (in Lane County) and the EPA Administrator postmarked within 10 business days after the date for that increment of progress. The owner or operator must inform DEQ or LRAPA (in Lane County) and the EPA Administrator of the failure to meet the increment, and must continue to submit reports each subsequent calendar month until the increment of progress is met.
- Complying with the increment of progress for submittal of a control plan. For the control plan increment of progress, the owner or operator must satisfy the following two requirements:
 - Submit the final control plan that includes the following five items:
 - A description of the devices for air pollution control and process changes that will be used to comply with the emission limitations and other requirements of this rule.
 - The type(s) of waste to be burned.

- The maximum design waste burning capacity.
- The anticipated maximum charge rate.
- If applicable, the petition for site-specific operating limits under subsection (6)(e) of this rule.
- Maintain an onsite copy of the final control plan.
- Complying with the increment of progress for achieving final compliance. For the final compliance increment of progress, the owner or operator must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected CISWI unit or air curtain incinerator is brought online, all necessary process changes and air pollution control devices would operate as designed.
- Closing a CISWI Unit or air curtain incinerator.
 - If closing a CISWI unit or air curtain incinerator but restarting it prior to the final compliance date, the owner or operator must meet the increments of progress.
 - If closing a CISWI unit or air curtain incinerator but restarting it after the final compliance date, the owner or operator must complete emission control retrofits and meet the emission limitations and operating limits on the date the unit restarts operation.
 - If planning to close a CISWI unit or air curtain incinerator rather than comply with this rule, the owner or operator must submit a closure notification, including the date of closure, to DEQ or LRAPA (in Lane County) and the EPA Administrator by the date the final control plan is due.

In accordance with 40 CFR 60.2815 through 60.2655, OAR 340-230-0500(7) contains the following increments of progress:

- Increments of Progress. The owner or operator must meet the following increments of progress:
 - Submit a final control plan by August 7, 2017, and
 - Achieve final compliance by February 7, 2018.
- Notifications of achievement of increments of progress. Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment. The notification of achievement of increments of progress must include the following three items:
 - Notification that the increment of progress has been achieved.
 - Any items required to be submitted with each increment of progress (see subsection (7)(d) of this rule).
 - Signature of the owner or operator of the incinerator.
- Failure to meet an increment of progress. If failing to meet an increment of progress, the owner or operator must submit a notification to DEQ and the EPA Administrator postmarked within 10 business days after the date for that increment of progress. The owner or operator must inform DEQ and the EPA Administrator of the failure to meet the increment, and must continue to submit reports each subsequent calendar month until the increment of progress is met.
- Complying with the increment of progress for submittal of a control plan. For the control plan increment of progress, the owner or operator must satisfy the following two requirements:
 - Submit the final control plan, including a description of any devices for air pollution control and any process changes that will be used to comply with the emission limitations and other requirements of this rule.
 - Maintain an onsite copy of the final control plan.
- Complying with the increment of progress for achieving final compliance. For the final compliance increment of progress, the owner or operator must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the

affected incinerator is brought online, all necessary process changes and air pollution control devices would operate as designed.

- Closing an air curtain incinerator.
 - If closing an air curtain incinerator but reopening it prior to the final compliance date, the owner or operator must meet the increments of progress in subsection (7)(b) of this rule.
 - If closing an air curtain incinerator but restarting it after the final compliance date, the owner or operator must complete emission control retrofits and meet the emission limitations on the date the incinerator restarts operation.
- If planning to close an air curtain incinerator rather than comply with this rule, the owner or operator must submit a closure notification, including the date of closure, to DEQ and the EPA Administrator by the date the final control plan is due.

VII. Emission Standards and Compliance Schedules

§60.2515(a)(4): *Emission limitations, operator training and qualification requirements, a waste management plan, and operating limits for affected CISWI units that are at least as protective as the emission guidelines contained in this subpart.*

- Emission limitations: OAR 340-230-0500(6)(i) and (7)(h) reference the model emission limitations in 40 CFR 60.2670 and 60.2860.
- Operator training and qualification requirements: OAR 340-230-0500(6)(h) references the model operator training and qualification requirements in 40 CFR 60.2635 through 60.2665.
- Waste management plan: OAR 340-230-0500(6)(g) references the model waste management plan requirements in 40 CFR 60.2620 through 60.2630.
- Operating limits: OAR 340-230-0500(6)(j) and (k) reference the operating limits in 40 CFR 60.2675 and 60.2680.

VIII. Performance testing, recordkeeping, and reporting requirements

§60.2515(a)(5): *Performance testing, recordkeeping, and reporting requirements.*

OAR 340-230-0500(6)(l) and (7)(i) reference the test methods and procedures in 40 CFR 60.2690 through 60.2735 and 60.2865 and incorporate the requirements of 40 CFR 60.2865 for determining compliance with the emission standards.

OAR 340-230-0500(6)(l) and (7)(i) also reference 40 CFR 60.2740 through 60.2800 and 60.2870 which are the model recordkeeping and reporting requirements from the federal emission guidelines.

IX. Public hearings

§60.2515(a)(6): *Certification that the hearing on the State plan was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.*

Public hearings:

Dec. 19, 2016, 5:00 pm
DEQ Headquarters Building

700 NE Multnomah St., Suite 600
Portland, OR 97232

Those unable to attend hearing in person were invited to participate by conference line or webinar.

DEQ provided 30 day notification of public hearing as follows:

- Electronic notification (Gov. delivery list)
 - Nov. 15, 2016: 7,544 recipients
- EPA notification
 - Nov. 2, 2016 letter (and public notice package)
- Oregon Bulletin (Oregon Secretary of State): Dec. 1, 2016

DEQ prepared and will retain, for a minimum of 2 years, a record of the public hearing for inspection by any interested party.

X. Progress reports

§60.2515(a)(7): *Provision for State progress reports to EPA.*

DEQ will submit progress reports of plan enforcement as required.

XI. Enforceable State mechanisms

§60.2515(a)(8): *Identification of enforceable State mechanisms that you selected for implementing the emission guidelines of this subpart.*

The EQC adopted OAR 340-230-0500 that partially adopts the emission guidelines by reference, as tailored to the particular circumstances and applicability in Oregon. OAR 340-230-0500(8) requires CISWI units and air curtain incinerators subject to OAR 340-230-0500 to comply with the Oregon Title V Operating Permit program requirements as specified in OAR 340 divisions 218 and 220 for DEQ. All Title V permits and amendments/revisions thereto for designated facilities will clearly reference the appropriate state plan approval provisions under 40 CFR part 62, not the emission guidelines under 40 CFR part 60.

Pursuant to ORS 468A.135, the EQC has required LRAPA to implement this division within its area of jurisdiction, unless LRAPA adopts rules which are at least as strict as this division. ORS 468A.165 authorizes the EQC to require LRAPA to take corrective measures if the EQC concludes that LRAPA is not administering its responsibilities consistent with state requirements. In addition, subject to and with the EQC's approval under ORS 468A.155, LRAPA has adopted Oregon's Title V Operating Permit program by reference in Sections 34-170 through 34-200.

XII. Legal Authority

§60.2515(a)(9): *Demonstration of your State's legal authority to carry out the sections 111(d) and 129 State plan.*

§60.26(a)(1): *Each plan shall show that the State has legal authority to carry out the plan, including authority to: Adopt emission standards and compliance schedules applicable to designated facilities.*

ORS 468.020 gives the EQC the authority to adopt such rules and standards as it considers necessary and proper in performing the functions vested by law in the commission.

ORS 468A.025 gives the EQC the authority to establish air quality standards including emission standards for the entire state or an area of the state. The standards shall set forth the maximum amount of air pollution permissible in various categories of air contaminants and may differentiate between different areas of the state, different air contaminants and different air contamination sources or classes thereof.

§60.26(a)(2): *Enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief.*

ORS 468.090 requires DEQ (and LRAPA by EQC designation under ORS 468A.135) to investigate complaints which it has cause to believe that any person is violating any rule or standard adopted by the EQC or any permit issued by DEQ (or LRAPA) by causing or permitting air pollution or air contamination. If DEQ (or LRAPA) finds after investigation that such a violation of any rule or standard or of any permit exists, the source is required to eliminate the source or cause of the pollution or contamination which resulted in such violation. In case of failure to remedy the violation, DEQ (or LRAPA) is required to commence enforcement proceedings.

ORS 468.095 gives DEQ (and LRAPA in Lane County by EQC designated under ORS 468A.135) the power to enter upon and inspect, at any reasonable time, any public or private property, premises or place for the purpose of investigating either an actual or suspected source of air pollution or air contamination or to ascertain compliance or noncompliance with any rule, standard, order, or permit. It also gives the EQC access to any pertinent records relating to such property, including but not limited to blueprints, operation and maintenance records and logs, operating rules and procedures.

ORS 468.100 gives the EQC and LRAPA the authority to institute actions and proceedings for legal and equitable remedies, including injunctive relief, to enforce compliance thereto or to restrain further violations.

LRAPA Section 13-005 gives LRAPA the authority to institute actions and proceedings to enforce EQC and LRAPA rules and standards, including seeking injunctive relief.

ORS 468.115 gives DEQ the authority to issue a cease and desist order whenever it appears the air pollution or air contamination is presenting an imminent and substantial endangerment to the health of persons.

LRAPA Section 51-015 requires air contaminant sources to take actions to maximize emission reductions and in some instances cease operation when an air pollution warning or emergency is declared.

ORS 468.120 gives the EQC (and LRAPA in Lane County by EQC designation under ORS 468A.135) the authority to issue subpoenas, administer oaths, and take or cause to be taken depositions and receive such pertinent and relevant proof as may be considered necessary or proper to carry out duties of the commission and DEQ (or LRAPA).

ORS 468.126 requires advance warning of penalty unless:

- the violation is intentional;
- the violation would not normally occur for five consecutive days;
- the permittee received prior advance warning of any violation of the permit within the 36 months immediately preceding the violation;
- the permittee is subject to the federal operating permit program and violates any adopted rule or standard or permit or order; or
- the requirement to provide such notice would disqualify a state program from federal approval or delegation.

ORS 468.130 requires the EQC to adopt by rule a schedule or schedules establishing the amount of civil penalty that may be imposed for a particular violation not to exceed \$25,000 per day and lists factors the commission is required to consider in imposing a penalty.

ORS 468.135 requires all recovered penalties to be paid into the State Treasury and credited to the General Fund, or if the penalty is recovered by a regional air quality control authority, into the county treasury of the county in which the violation occurred.

ORS 468.140 requires additional civil penalties for each day of violation.

ORS 468A.135 authorizes the EQC to delegate to LRAPA the responsibility to implement air quality control functions within its jurisdiction and to require LRAPA to implement and enforce state laws and the EQC's rules and standards. ORS 468A.165 authorizes the EQC to require LRAPA to take corrective measures if the EQC concludes that LRAPA is not administering its responsibilities consistent with state requirements.

§60.26(a)(3): *Obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require recordkeeping and to make inspections and conduct tests of designated facilities.*

ORS 468.095 gives DEQ (and LRAPA in Lane County by EQC designation under ORS 468A.135) the power to enter upon and inspect, at any reasonable time, any public or private property, premises or place for the purpose of investigating either an actual or suspected source of air pollution or air contamination or to ascertain compliance or noncompliance with any rule or standard adopted or order or permit issued.

ORS 468A.055 gives the EQC (and LRAPA in Lane County by EQC designation under ORS 468A.135) the authority to require any information concerning air contaminant emissions as is necessary to determine whether proposed construction is in accordance with applicable rules or standards.

ORS 468A.070 gives the EQC (and LRAPA in Lane County by EQC designation under ORS 468A.135) the authority to establish a program for testing of contamination sources and may perform such testing or may require any person in control of an air contamination source to perform the testing.

ORS 468A.135 authorizes the EQC to delegate to LRAPA the responsibility to implement air quality control functions within its jurisdiction and to require LRAPA to implement and enforce state laws and the EQC's rules and standards. ORS 468A.165 authorizes the EQC to require LRAPA to take corrective measures if the EQC concludes that LRAPA is not administering its responsibilities consistent with state requirements.

OAR 340-214-0110 and LRAPA Section 34-015 require sources to provide information that, respectively, DEQ and LRAPA (in Lane County) reasonably require for the purpose of regulating stationary sources. Such information includes, but is not limited to, information necessary to: issue a permit and ascertain compliance or noncompliance with the permit terms and conditions; ascertain applicability of any requirement; and ascertain compliance or noncompliance with any applicable requirement.

§60.26(a)(4): *Require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amounts of emissions from such facilities; also authority for the State to make such data available to the public as reported and as correlated with applicable emission standards.*

ORS 468.095 requires DEQ (and LRAPA in Lane County by EQC designation under ORS 468A.135) to make records, reports or information available to the public.

ORS 468A.070 gives DEQ (and LRAPA in Lane County by EQC designation under ORS 468A.135) the authority to establish a program for measurement of contamination sources and may perform such sampling or may require any person in control of an air contamination source to perform the sampling.

OAR 340-212-0120 and LRAPA Section 35-0120 give, respectively, DEQ and LRAPA (in Lane County) the authority to require owners or operators of a stationary source to determine the type, quantity, quality, and duration of the emissions from any air contamination source. They also give DEQ and LRAPA (in Lane County) the authority to require continuous monitoring of specified air contaminant emissions or parameters and periodic regular reporting of the results of such monitoring.

OAR 340-214-0110 and LRAPA Section 34-015 require sources to provide information that DEQ or LRAPA (in Lane County) reasonably require for the purpose of regulating stationary sources. Such information includes, but is not limited to, information necessary to incorporate monitoring, reporting, and compliance certification requirements into a permit.

OAR 340-214-0114 and LRAPA Section 35-0160 require sources to prepare records in the form of a report and submit to DEQ or LRAPA (in Lane County) on an annual, semi-annual, or more frequent basis, as requested in writing by DEQ or LRAPA (in Lane County). All reports and certifications submitted to DEQ or LRAPA (in Lane County) must accurately reflect the monitoring, recordkeeping and other documentation held or performed by the owner or operator.

DEQ enforces these responsibilities under and consistent with the provisions of OAR chapter 340, division 12, "Enforcement Procedures and Civil Penalties."

LRAPA enforces these responsibilities under and consistent with the provisions of Title 15, “Enforcement Procedures and Civil Penalties.”

§60.25(b): *The provisions of law or regulations which the State determines provide the authorities required by this section shall be specifically identified. Copies of such laws or regulations shall be submitted with the plan unless: They have been approved as portions of a preceding plan submitted under this subpart or as portions of an implementation plan submitted under section 110 of the Act, and The State demonstrates that the laws or regulations are applicable to the designated pollutant(s) for which the plan is submitted.*

The laws and regulations referenced in this plan are provided in Exhibit B.

§60.25(c): *The plan shall show that the legal authorities specified in this section are available to the State at the time of submission of the plan. Legal authority adequate to meet the requirements of 40 paragraphs (a)(3) and (4) of this section may be delegated to the State under section 114 of the Act.*

The above legal authorities are available to the State and LRAPA at the time of submission of the plan.

§60.25(d): *A State governmental agency other than the State air pollution control agency may be assigned responsibility for carrying out a portion of a plan if the plan demonstrates to the Administrator's satisfaction that the State governmental agency has the legal authority necessary to carry out that portion of the plan.*

ORS 468A.165 provides that if LRAPA fails to appropriately administer its responsibilities under this plan within Lane County, then the EQC must do so and the EQC's actions will supersede all of LRAPA's rules, standards and orders.

§60.26(e): *The State may authorize a local agency to carry out a plan, or portion thereof, within the local agency's jurisdiction if the plan demonstrates to the Administrator's satisfaction that the local agency has the legal authority necessary to implement the plan or portion thereof, and that the authorization does not relieve the State of responsibility under the Act for carrying out the plan or portion thereof.*

As noted above, ORS 468A.135 permits the EQC to authorize LRAPA to exercise certain specified EQC and DEQ air quality program functions within Lane County, subject to the EQC's review and approval of any standards adopted by LRAPA, and provided that LRAPA enforces EQC rules and standards if so required. The EQC has adopted OAR 340-200-0010(3) to authorize LRAPA to undertake such responsibilities. Finally, ORS 468A.165 provides that if LRAPA fails to appropriately administer its responsibilities under this plan within Lane County, then the EQC must do so and the EQC's actions will supersede all of LRAPA's rules, standards and orders.

Exhibit A

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 200

GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

General

340-200-0010

Purpose and Application

(1) This division provides general air pollution procedures and definitions that apply to all air quality rules in OAR 340 divisions 200 through 268.

(2) Divisions 200 through 268 apply in addition to all other rules adopted by the EQC. In cases of apparent conflict between rules within these divisions, the most stringent rule applies unless otherwise expressly stated.

(3) DEQ administers divisions 200 through 268 in all areas of the State of Oregon except when the EQC has designated LRAPA to administer rules within its area of jurisdiction. Subject to and when provided in divisions 200 through 268, LRAPA is authorized by the EQC as the agency to implement these state rules, and must apply the requirements and procedures contained in these state rules, within its area of jurisdiction. LRAPA may apply any LRAPA rule in lieu of a state rule(s) provided that the LRAPA rule is at least as strict as the state rule(s), LRAPA has submitted the rule to the EQC for its approval, and the EQC has not disapproved the rule.

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

Stat. Auth.: ORS 468.020 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 7-2015, f. & cert. ef. 4-16-15

DIVISION 230

INCINERATOR REGULATIONS

340-230-0020

Applicability

(1) OAR 340-230-0100 through 340-230-0150 apply to all solid and infectious waste incinerators other than:

- (a) Municipal waste combustors, including those municipal waste combustors that burn some medical waste, that are subject to either OAR 340-238-0060, or 340-230-0300 through 340-230-0395; and
- (b) Hospital/medical/infectious waste incinerators that are subject to OAR 340-230-0415.
- (c) Commercial and industrial solid waste incinerators that are subject to OAR 340-230-0500.
- (2) OAR 340-230-0200 through 340-230-0230 apply to all new and existing crematory incinerators;
- (3) OAR 340-230-0300 through 340-230-0395 apply to municipal waste combustors as specified in 340-230-0300.
- (4) OAR 340-230-0415 applies to hospital/medical/infectious waste incinerators as specified in **40 CFR Part 62 Subpart HHH**.
- (5) OAR 340-230-0500 applies to commercial and industrial solid waste incineration units as specified in OAR 340-230-0500(3) and (4).
- (6) Subject to the requirements in this division, LRAPA is designated by the EQC to implement this division within its area of jurisdiction. The requirements and procedures contained in this division must be used by LRAPA unless LRAPA has adopted or adopts rules which are at least as strict as this division.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0852; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 8-2015, f. & cert. ef. 4-17-15

Commercial and Industrial Solid Waste Incineration Units

340-230-0500, Municipal Waste Combustors: Emission Standards for Commercial and Industrial Solid Waste Incineration Units

- (1) Purpose. This rule implements the emission guidelines and compliance schedules for the control of emissions from commercial and industrial solid waste incineration (CISWI) units.
- (2) Definitions. Terms used in this rule are as defined in 40 C.F.R. 60.2875. In 40 C.F.R. 60.2875, substitute “is defined by the EPA administrator” for “is defined by the Administrator” and substitute “established by the EPA Administrator by rule” for “established by the Administrator by rule”.
- (3) Compliance schedule.
 - (a) CISWI units in the incinerator subcategory and air curtain incinerators that commenced construction on or before Nov. 30, 1999, must achieve final compliance not later than April 20, 2017.

(b) CISWI units in the incinerator subcategory and air curtain incinerators that commenced construction after Nov. 30, 1999, but on or before June 4, 2010 or that commenced reconstruction or modification on or after June 1, 2001 but not later than Aug. 7, 2013, and for CISWI units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories, that commenced construction before June 4, 2010, must achieve final compliance as quickly as possible but not later than Feb. 7, 2018.

(4) Affected CISWI units.

(a) Incineration units that meet all of the following three criteria are affected CISWI units:

(A) CISWI units that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010 but no later than August 7, 2013.

(B) Incineration units that meet the definition of a CISWI unit in 40 C.F.R. 60.2875.

(C) Incineration units not exempt under section (5) of this rule.

(b) If the owner or operator of a CISWI unit or air curtain incinerator makes changes that meets the definition of modification or reconstruction on or after Aug. 7, 2013, the CISWI unit becomes subject to 40 C.F.R. Part 60 Subpart CCCC and this rule no longer applies to that unit.

(c) If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with this rule, then 40 C.F.R. Part 60 Subpart CCCC does not apply to that unit. Such changes do not qualify as modifications or reconstructions under 40 C.F.R. Part 60 Subpart CCCC.

(5) Exempt units. The types of units in subsections (5)(a) through (k) of this rule are exempt from this rule, but some units are required to provide notifications. Air curtain incinerators are exempt from the requirements of this rule except for the requirements in sections (7) and (8) of this rule.

(a) Pathological waste incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low level radioactive waste, and/or chemotherapeutic waste as defined in 40 C.F.R. 60.2875 if the owner or operator meets the following two requirements:

(A) Notify DEQ and EPA Administrator that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(b) Municipal waste combustion units that are subject to 40 C.F.R. Part 60 Subpart Cb (Emission Guidelines and Compliance Times for Large Municipal Combustors); Ea (Standards of Performance for Municipal Waste Combustors); Eb (Standards of Performance for Large Municipal Waste Combustors); AAAA (Standards of Performance for Small Municipal Waste Combustion Units); or BBBB (Emission Guidelines for Small Municipal Waste Combustion Units).

(c) Medical waste incineration units regulated under 40 C.F.R. Part 60 Subpart Ca (Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators) or Ec

(Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996).

(d) Small power production facilities that meet the following four requirements:

(A) The unit qualifies as a small power-production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. § 796(17)(C)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(C) The owner or operator submits documentation to DEQ and the EPA Administrator notifying DEQ and EPA that the qualifying small power production facility is combusting homogenous waste.

(D) The owner or operator maintains the records specified in 40 C.F.R. 60.2740(v).

(e) Cogeneration facilities. Units that meet the following three requirements:

(A) The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. § 796(18)(B)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) The owner or operator submits documentation to DEQ and the EPA Administrator notifying DEQ and EPA that the qualifying cogeneration facility is combusting homogenous waste.

(D) The owner or operator maintains the records specified in 40 C.F.R. 60.2740(w).

(f) Hazardous waste combustion units for which the owner or operator is required to get a permit under section 3005 of the Solid Waste Disposal Act.

(g) Materials recovery units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters.

(h) Air curtain incinerators that burn only the following materials are only required to meet the requirements under section (8) of this rule and under “Air Curtain Incinerators” (section (7) of this rule):

(A) 100 percent wood waste.

(B) 100 percent clean lumber.

(C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(i) Sewage treatment plants regulated under 40 C.F.R. Part 60 Subpart O (Standards of Performance for Sewage Treatment Plants).

(j) Sewage sludge incineration units combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter that are subject to 40 C.F.R. Part 60

Subpart LLLL (Standards of Performance for Sewage Sludge Incineration Units) or 40 C.F.R. Part 60 Subpart MMMM (Emission Guidelines for Sewage Sludge Incineration Units).

(k) Other solid waste incineration units that are subject to 40 C.F.R. Part 60 Subpart EEEE (Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or after June 16, 2006) or 40 C.F.R. Part 60 Subpart FFFF (Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before Dec. 9, 2004).

(6) Requirements for CISWI units.

(a) Increments of Progress and Achieving Final Compliance. The owner or operator of an affected CISWI unit must meet the following increments of progress:

(A) Submit a final control plan by Aug. 7, 2017, and

(B) Achieve final compliance by Feb. 7, 2018.

(b) Notifications of achievement of increments of progress. Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment. The notification of achievement of increments of progress must include the following three items:

(A) Notification that the increment of progress has been achieved.

(B) Any items required to be submitted with each increment of progress.

(C) Signature of the owner or operator of the CISWI unit or air curtain incinerator.

(c) Failure to meet an increment of progress. If failing to meet an increment of progress, the owner or operator must submit a notification to DEQ and the EPA Administrator postmarked within 10 business days after the date for that increment of progress. The owner or operator must inform DEQ and the EPA Administrator of the failure to meet the increment, and must continue to submit reports each subsequent calendar month until the increment of progress is met.

(d) Complying with the increment of progress for submittal of a control plan. For the control plan increment of progress, the owner or operator must satisfy the following two requirements:

(A) Submit the final control plan that includes the following five items:

(i) A description of the devices for air pollution control and process changes that will be used to comply with the emission limitations and other requirements of this rule.

(ii) The type(s) of waste to be burned.

(iii) The maximum design waste burning capacity.

(iv) The anticipated maximum charge rate.

(v) If applicable, the petition for site-specific operating limits under subsection (6)(k) of this rule.

(B) Maintain an onsite copy of the final control plan.

(e) Complying with the increment of progress for achieving final compliance. For the final compliance increment of progress, the owner or operator must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected CISWI unit is brought online, all necessary process changes and air pollution control devices would operate as designed.

(f) Closing a CISWI unit.

(A) If closing a CISWI unit but restarting it prior to the final compliance date, the owner or operator must meet the increments of progress.

(B) If closing a CISWI unit but restarting it after the final compliance date, the owner or operator must complete emission control retrofits and meet the emission limitations and operating limits on the date the unit restarts operation.

(C) If planning to close a CISWI unit rather than comply with this rule, the owner or operator must submit a closure notification, including the date of closure, to DEQ and the EPA Administrator by the date the final control plan is due.

(g) Waste management plan. Owners and operators of affected CISWI units must comply with 40 C.F.R. 60.2620 through 60.2630. In 40 C.F.R. 60.2625, substitute "OAR 340-230-0500(6)(a)(A)" for "table 1 of this subpart".

(h) Operator training and qualification. Owners or operators of affected CISWI units must comply with 40 C.F.R. 60.2635 through 60.2665. In 40 C.F.R. 60.2665(b)(1), substitute "DEQ" for "the Administrator". In 40 C.F.R. 60.2665(b)(2) and (b)(2)(ii), substitute "EPA Administrator" for "Administrator".

(i) Emission limitations. Owners and operators of affected CISWI units must comply with 40 C.F.R. 60.2670 with the following changes:

(A) In 40 C.F.R. 60.2670(a), substitute "in OAR 340-230-0500(3)" for "under the approved state plan, federal plan, or delegation, as applicable".

(B) Table 2 to 40 C.F.R. Part 60 Subpart DDDD applies only to CISWI units that were subject to the Federal plan in 40 C.F.R. Part 62 Subpart III (Federal Plan Requirements for Commercial and Industrial Solid Waste Incineration Units) prior to June 4, 2010.

(C) In Table 2 to 40 C.F.R. Part 60 Subpart DDDD, substitute "February 7, 2018" for "[DATE TO BE SPECIFIED IN STATE PLAN]".

(D) In Tables 6 through 9 to 40 C.F.R. Part 60 Subpart DDDD, substitute "February 7, 2018" for "[DATE TO BE SPECIFIED IN STATE PLAN]".

(j) Operating limits. Owners and operators of affected CISWI units must comply with 40 C.F.R. 60.2675.

(k) Site-specific operating limit. Owners and operators of affected CISWI units may request a site-specific operating limit in accordance with 40 C.F.R. 60.2680.

(l) Compliance demonstration. Owners and operators of affected CISWI units must demonstrate compliance with this rule in accordance with 40 C.F.R. 60.2690 through 60.2800.

(A) In 40 C.F.R. 60.2720(a)(1), substitute “DEQ or the EPA Administrator may request” for “The Administrator may request”.

(B) In 40 C.F.R. 60.2720(a)(3), substitute “request by DEQ or the EPA Administrator” for “request by the Administrator”.

(C) In 40 C.F.R. 60.2725(a), substitute “DEQ or the EPA Administrator may request” for “The Administrator may request”.

(D) In 40 C.F.R. 60.2730(n)(1) and (n)(2), substitute “Notify DEQ” for “Notify the Administrator”.

(E) In 40 C.F.R. 60.2730(n)(4), substitute “notification to DEQ” for “notification to the Administrator”.

(F) In 40 C.F.R. 60.2745, substitute “DEQ” for “the Administrator”.

(G) In 40 C.F.R. 60.2785(a)(2), (a)(2)(iii), and (b), substitute “DEQ” for “the Administrator”.

(H) In 40 C.F.R. 60.2795(a), (b)(1)(ii) and (b)(2)(ii), substitute “DEQ and the EPA Administrator” for “the Administrator”.

(I) In 40 C.F.R. 60.2800, substitute “DEQ” for “the Administrator”.

(7) Requirements for air curtain incinerators.

(a) An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

(b) Increments of Progress. The owner or operator must meet the following increments of progress:

(A) Submit a final control plan by Aug. 7, 2017, and

(B) Achieve final compliance by Feb. 7, 2018.

(c) Notifications of achievement of increments of progress. Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment. The notification of achievement of increments of progress must include the following three items:

(A) Notification that the increment of progress has been achieved.

(B) Any items required to be submitted with each increment of progress (see subsection (7)(d) of this rule).

(C) Signature of the owner or operator of the incinerator.

(c) Failure to meet an increment of progress. If failing to meet an increment of progress, the owner or operator must submit a notification to DEQ and the EPA Administrator postmarked within 10 business days after the date for that increment of progress. The owner or operator must inform DEQ and the EPA Administrator of the failure to meet the increment, and must continue to submit reports each subsequent calendar month until the increment of progress is met.

(d) Complying with the increment of progress for submittal of a control plan. For the control plan increment of progress, the owner or operator must satisfy the following two requirements:

(A) Submit the final control plan, including a description of any devices for air pollution control and any process changes that will be used to comply with the emission limitations and other requirements of this rule.

(B) Maintain an onsite copy of the final control plan.

(e) Complying with the increment of progress for achieving final compliance. For the final compliance increment of progress, the owner or operator must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected incinerator is brought online, all necessary process changes and air pollution control devices would operate as designed.

(f) Closing an air curtain incinerator.

(A) If closing an air curtain incinerator but reopening it prior to the final compliance date, the owner or operator must meet the increments of progress in subsection (7)(b) of this rule.

(B) If closing an air curtain incinerator but restarting it after the final compliance date, the owner or operator must complete emission control retrofits and meet the emission limitations on the date the incinerator restarts operation.

(g) If planning to close an air curtain incinerator rather than comply with this rule, the owner or operator must submit a closure notification, including the date of closure, to DEQ and the EPA Administrator by the date the final control plan is due.

(h) Emission limitations. After the date the initial stack test is required or completed (whichever is earlier, the owner or operator of the affected air curtain incinerator must comply with the following:

(A) Maintain opacity to less than or equal to 10 percent opacity (as determined by the average of three 1- hour blocks consisting of ten 6-minute average opacity values), except as described in paragraph (7)(h)(B) of this rule; and

(B) Maintain opacity to less than or equal to 35 percent opacity (as determined by the average of three 1- hour blocks consisting of ten 6-minute average opacity values) during the startup period that is within the first 30 minutes of operation.

(i) Compliance demonstration. The owners or operator of the affected air curtain incinerator must demonstrate compliance with this rule as follows and in accordance with 40 C.F.R. 60.2870. In 40 C.F.R. 60.2870(a) and (b), substitute “DEQ or the EPA Administrator” for “the Administrator”.

(A) Use Method 9 of appendix A of 40 C.F.R. Part 60 to determine compliance with the opacity limitation.

(B) Conduct an initial test for opacity as specified in 40 C.F.R. 60.8 no later than 180 days after the owner or operator’s final compliance date.

(C) After the initial test for opacity, conduct annual tests no more than 12 calendar months following the date of the owner or operator’s previous test.

(8) Permitting requirements. CISWI units and air curtain incinerators subject to this rule must operate pursuant to a permit issued under the Oregon Title V Operating Permit program requirements as specified in OAR 340 divisions 218 and 220.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

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

Exhibit B

Legal Authority

Oregon Revised Statutes Chapter 468 — Environmental Quality Generally

As Effective Oct., 1, 2015

ENFORCEMENT

468.020 Rules and standards.

(1) In accordance with the applicable provisions of ORS chapter 183, the Environmental Quality Commission shall adopt such rules and standards as it considers necessary and proper in performing the functions vested by law in the commission.

(2) Except as provided in ORS 183.335 (5), the commission shall cause a public hearing to be held on any proposed rule or standard prior to its adoption. The hearing may be before the commission, any designated member thereof or any person designated by and acting for the commission.

[Formerly 449.173; 1977 c.38 §1]

468.090 Complaint procedure.

(1) In case any written substantiated complaint is filed with the Department of Environmental Quality which it has cause to believe, or in case the department itself has cause to believe, that any person is violating any rule or standard adopted by the Environmental Quality Commission or any permit issued by the department by causing or permitting water pollution or air pollution or air contamination, the department shall cause an investigation thereof to be made. If it finds after such investigation that such a violation of any rule or standard of the commission or of any permit issued by the department exists, it shall by conference, conciliation and persuasion endeavor to eliminate the source or cause of the pollution or contamination which resulted in such violation.

(2) In case of failure to remedy the violation, the department shall commence enforcement proceedings pursuant to the procedures set forth in ORS chapter 183 for a contested case and in ORS 468B.032. [Formerly 449.815; 1999 c.975 §3]

468.095 Investigatory authority; entry on premises; status of records.

(1) The Department of Environmental Quality shall have the power to enter upon and inspect, at any reasonable time, any public or private property, premises or place for the purpose of investigating either an actual or suspected source of water pollution or air pollution or air contamination or to ascertain compliance or noncompliance with any rule or standard adopted or order or permit issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B. The Environmental Quality Commission shall also have access to any pertinent records relating to such property, including but not limited to blueprints, operation and maintenance records and logs, operating rules and procedures.

(2) Unless classified by the Director of the Department of Environmental Quality as confidential, any records, reports or information obtained under ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B shall be available to the public. Upon a showing satisfactory to the director by any person that records, reports or information, or particular parts thereof, other than emission data, if made public, would divulge a secret process, device or method of manufacturing or production entitled to protection as trade secrets of such person, the director shall classify such record, report or information, or particular part thereof, other than emission data, confidential and such confidential record, report or

information, or particular part thereof, other than emission data, shall not be made a part of any public record or used in any public hearing unless it is determined by a circuit court that evidence thereof is necessary to the determination of an issue or issues being decided at a public hearing. [Formerly 449.169; 1975 c.173 §1]

468.100 Enforcement procedures; powers of regional authorities; status of procedures.

(1) Whenever the Environmental Quality Commission has good cause to believe that any person is engaged or is about to engage in any acts or practices which constitute a violation of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B, or any rule, standard or order adopted or entered pursuant thereto, or of any permit issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B, the commission may institute actions or proceedings for legal or equitable remedies to enforce compliance thereto or to restrain further violations.

(2) The proceedings authorized by subsection (1) of this section may be instituted without the necessity of prior agency notice, hearing and order, or during said agency hearing if it has been initially commenced by the commission.

(3) A regional authority formed under ORS 468A.105 may exercise the same functions as are vested in the commission by this section insofar as such functions relate to air pollution control and are applicable to the conditions and situations of the territory within the regional authority. The regional authority shall carry out these functions in the manner provided for the commission to carry out the same functions.

(4) The provisions of this section are in addition to and not in substitution of any other civil or criminal enforcement provisions available to the commission or a regional authority. The provisions of this section shall not prevent the maintenance of actions for legal or equitable remedies relating to private or public nuisances brought by any other person, or by the state on relation of any person without prior order of the commission. [1973 c.826 §2; 1979 c.284 §153]

468.110 Appeal; power of court to stay enforcement. Any person adversely affected or aggrieved by any order of the Environmental Quality Commission may appeal from such order in accordance with the provisions of ORS chapter 183. However, notwithstanding ORS 183.482 (3), relating to a stay of enforcement of an agency order and the giving of bond or other undertaking related thereto, any reviewing court before it may stay an order of the commission shall give due consideration to the public interest in the continued enforcement of the commission's order, and may take testimony thereon. [Formerly 449.090; 2007 c.71 §148]

468.115 Enforcement in cases of emergency.

(1) Whenever it appears to the Department of Environmental Quality that water pollution or air pollution or air contamination is presenting an imminent and substantial endangerment to the health of persons, at the direction of the Governor the department shall, without the necessity of prior administrative procedures or hearing, enter an order against the person or persons responsible for the pollution or contamination requiring the person or persons to cease and desist from the action causing the pollution or contamination. Such order shall be effective for a period not to exceed 10 days and may be renewed thereafter by order of the Governor.

(2) The state and local police shall cooperate in the enforcement of any order issued pursuant to subsection (1) of this section and shall require no further authority or warrant in executing and enforcing such an order.

(3) If any person fails to comply with an order issued pursuant to subsection (1) of this section, the

circuit court in which the source of water pollution or air pollution or air contamination is located shall compel compliance with the order in the same manner as with an order of that court. [Formerly 449.980]

468.120 Public hearings; subpoenas, oaths, depositions.

(1) The Environmental Quality Commission, its members or a person designated by and acting for the commission may:

- (a) Conduct public hearings.
- (b) Issue subpoenas for the attendance of witnesses and the production of books, records and documents relating to matters before the commission.
- (c) Administer oaths.
- (d) Take or cause to be taken depositions and receive such pertinent and relevant proof as may be considered necessary or proper to carry out duties of the commission and Department of Environmental Quality pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B.

(2) Subpoenas authorized by this section may be served by any person authorized by the person issuing the subpoena. Witnesses who are subpoenaed shall receive the fees and mileage provided in ORS 44.415 (2). [Formerly 449.048; 1989 c.980 §14b]

468.126 Advance notice.

(1) No civil penalty prescribed under ORS 468.140 shall be imposed for a violation of an air, water or solid waste permit issued by the Department of Environmental Quality until the permittee has received five days' advance warning in writing from the department, specifying the violation and stating that a penalty will be imposed for the violation unless the permittee submits the following to the department in writing within five working days after receipt of the advance warning:

- (a) A response certifying that the permitted facility is complying with applicable law;
- (b) A proposal to bring the facility into compliance with applicable law that is acceptable to the department and that includes but is not limited to proposed compliance dates; or
- (c) For a water quality permit violation, a request in writing to the department that the department follow the procedures prescribed under ORS 468B.032. Notwithstanding the requirement for a response to the department within five working days, the permittee may file a request under this paragraph within 20 days from the date of service of the notice.

(2) No advance notice shall be required under subsection (1) of this section if:

- (a) The violation is intentional;
- (b) The water or air violation would not normally occur for five consecutive days;
- (c) The permittee has received prior advance warning of any violation of the permit within the 36 months immediately preceding the violation;
- (d) The permittee is subject to the federal operating permit program under ORS 468A.300 to 468A.320 and violates any rule or standard adopted or permit or order issued under ORS chapter 468A and applicable to the permittee; or
- (e) The requirement to provide such notice would disqualify a state program from federal approval or delegation. [1991 c.650 §9 (enacted in lieu of 468.125); 1993 c.790 §3; 1999 c.975 §4]

468.130 Schedule of civil penalties; rules; factors to be considered in imposing civil penalties.

(1) The Environmental Quality Commission shall adopt by rule a schedule or schedules establishing the amount of civil penalty that may be imposed for a particular violation. Except as provided in ORS 468.140 (3), no civil penalty shall exceed \$25,000 per day. Where the classification involves air pollution, the commission shall consult with the regional air quality control authorities before

adopting any classification or schedule.

(2) In imposing a penalty pursuant to the schedule or schedules authorized by this section, the commission and regional air quality control authorities shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of statutes, rules, orders and permits enforceable by the commission or by regional air quality control authorities.

(c) The economic and financial conditions of the person incurring a penalty.

(d) The gravity and magnitude of the violation.

(e) Whether the violation was repeated or continuous.

(f) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.

(g) The violator's cooperativeness and efforts to correct the violation.

(h) Whether the violator gained an economic benefit as a result of the violation.

(i) Any relevant rule of the commission.

(3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the commission or regional authority considers proper and consistent with the public health and safety.

(4) The commission may by rule delegate to the Department of Environmental Quality, upon such conditions as deemed necessary, all or part of the authority of the commission provided in subsection (3) of this section to remit or mitigate civil penalties. [Formerly 449.970; 1977 c.317 §3; 1987 c.266 §2; 1991 c.650 §4; 2009 c.267 §8]

468.135 Imposition of civil penalties.

(1) Any civil penalty under ORS 468.140 shall be imposed in the manner provided in ORS 183.745.

(2) All penalties recovered under ORS 468.140 shall be paid into the State Treasury and credited to the General Fund, or in the event the penalty is recovered by a regional air quality control authority, it shall be paid into the county treasury of the county in which the violation occurred. [Formerly 449.973; 1989 c.706 §17; 1991 c.650 §6; 1991 c.734 §37]

468.140 Civil penalties for specified violations.

(1) In addition to any other penalty provided by law, any person who violates any of the following shall incur a civil penalty for each day of violation in the amount prescribed by the schedule adopted under ORS 468.130:

(a) The terms or conditions of any permit required or authorized by law and issued by the Department of Environmental Quality or a regional air quality control authority.

(b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

(c) Any rule or standard or order of the Environmental Quality Commission adopted or issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

(d) Any term or condition of a variance granted by the commission or department pursuant to ORS 467.060.

(e) Any rule or standard or order of a regional authority adopted or issued under authority of ORS 468A.135.

(f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related to the financial assurance requirement under ORS 468B.390.

(2) Each day of violation under subsection (1) of this section constitutes a separate offense.

(3)(a) In addition to any other penalty provided by law, any person who intentionally or negligently causes or permits the discharge of oil or hazardous material into the waters of the state or intentionally or negligently fails to clean up a spill or release of oil or hazardous material into the waters of the state as required by ORS 466.645 shall incur a civil penalty not to exceed the amount of \$100,000 for each violation.

(b) In addition to any other penalty provided by law, the following persons shall incur a civil penalty not to exceed the amount of \$25,000 for each day of violation:

(A) Any person who violates the terms or conditions of a permit authorizing waste discharge into the air or waters of the state.

(B) Any person who violates any law, rule, order or standard in ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapters 468, 468A and 468B relating to air or water pollution.

(C) Any person who violates the provisions of a rule adopted or an order issued under ORS 459A.590.

(4) In addition to any other penalty provided by law, any person who violates the provisions of ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$1,000 for each day of violation.

(5) Subsection (1)(c) and (e) of this section does not apply to violations of motor vehicle emission standards which are not violations of standards for control of noise emissions.

(6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided by law, any person who intentionally or negligently causes or permits open field burning contrary to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed by the department a civil penalty of at least \$20 but not more than \$40 for each acre so burned. Any amounts collected by the department pursuant to this subsection shall be deposited with the State Treasurer to the credit of the General Fund and shall be available for general governmental expense. As used in this subsection, "open field burning" does not include propane flaming of mint stubble. [Formerly 449.993; 1975 c.559 §14; 1977 c.511 §5; 1979 c.353 §1; 1987 c.513 §1; 1989 c.268 §4; 1989 c.1042 §7; 1991 c.764 §6; 1997 c.473 §1; 2001 c.688 §7; 2009 c.267 §9; 2011 c.597 §209]

ORS Chapter 468A — Air Quality

As Effective on Oct., 1, 2015

468A.025 Air purity standards; air quality standards; treatment and control of emissions; rules.

(1) By rule the Environmental Quality Commission may establish areas of the state and prescribe the degree of air pollution or air contamination that may be permitted therein, as air purity standards for such areas.

(2) In determining air purity standards, the commission shall consider the following factors:

(a) The quality or characteristics of air contaminants or the duration of their presence in the atmosphere which may cause air pollution in the particular area of the state;

(b) Existing physical conditions and topography;

(c) Prevailing wind directions and velocities;

(d) Temperatures and temperature inversion periods, humidity, and other atmospheric conditions;

(e) Possible chemical reactions between air contaminants or between such air contaminants and air gases, moisture or sunlight;

(f) The predominant character of development of the area of the state, such as residential, highly developed industrial area, commercial or other characteristics;

(g) Availability of air-cleaning devices;

- (h) Economic feasibility of air-cleaning devices;
 - (i) Effect on normal human health of particular air contaminants;
 - (j) Effect on efficiency of industrial operation resulting from use of air-cleaning devices;
 - (k) Extent of danger to property in the area reasonably to be expected from any particular air contaminants;
 - (l) Interference with reasonable enjoyment of life by persons in the area which can reasonably be expected to be affected by the air contaminants;
 - (m) The volume of air contaminants emitted from a particular class of air contamination source;
 - (n) The economic and industrial development of the state and continuance of public enjoyment of the state's natural resources; and
 - (o) Other factors which the commission may find applicable.
- (3) The commission may establish air quality standards including emission standards for the entire state or an area of the state. The standards shall set forth the maximum amount of air pollution permissible in various categories of air contaminants and may differentiate between different areas of the state, different air contaminants and different air contamination sources or classes thereof.
- (4) The commission shall specifically fulfill the intent of the policy under ORS 468A.010 (1)(a) as it pertains to the highest and best practicable treatment and control of emissions from stationary sources through the adoption of rules:
- (a) To require specific permit conditions for the operation and maintenance of pollution control equipment to the extent the Department of Environmental Quality considers the permit conditions necessary to insure that pollution control equipment is operated and maintained at the highest reasonable efficiency and effectiveness level.
 - (b) To require typically achievable control technology for new, modified and existing sources of air contaminants or precursors to air contaminants for which ambient air quality standards are established, to the extent emission units at the source are not subject to other emission standards for a particular air contaminant and to the extent the department determines additional controls on such sources are necessary to carry out the policy under ORS 468A.010 (1)(a).
 - (c) To require controls necessary to achieve ambient air quality standards or prevent significant impairment of visibility in areas designated by the commission for any source that is a substantial cause of any exceedance or projected exceedance in the near future of national ambient air quality standards or visibility requirements.
 - (d) To require controls necessary to meet applicable federal requirements for any source.
 - (e) Applicable to a source category, contaminant or geographic area necessary to protect public health or welfare for air contaminants not otherwise regulated by the commission or as necessary to address the cumulative impact of sources on air quality.
- (5) Rules adopted by the commission under subsection (4) of this section shall be applied to a specific stationary source only through express incorporation as a permit condition in the permit for the source.
- (6) Nothing in subsection (4) of this section or rules adopted under subsection (4) of this section shall be construed to limit the authority of the commission to adopt rules, except rules addressing the highest and best practicable treatment and control.
- (7) As used in this section, "typically achievable control technology" means the emission limit established on a case-by-case basis for a criterion contaminant from a particular emission unit in accordance with rules adopted under subsection (4) of this section. For an existing source, the emission limit established shall be typical of the emission level achieved by emission units similar in type and size. For a new or modified source, the emission limit established shall be typical of the emission level achieved by recently installed, well controlled new or modified emission units similar in type and size. Typically achievable control technology determinations shall be based on

information known to the department. In making the determination, the department shall take into consideration pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness and the age and remaining economic life of existing emission control equipment. The department may consider emission control technologies typically applied to other types of emission units if such technologies can be readily applied to the emission unit. If an emission limitation is not feasible, the department may require a design, equipment, work practice or operational standard or a combination thereof. [Formerly 449.785 and then 468.295; 1993 c.790 §1]

468A.055 Notice prior to construction of new sources; order authorizing or prohibiting construction; effect of no order; appeal.

- (1) The Environmental Quality Commission may require notice prior to the construction of new air contamination sources specified by class or classes in its rules or standards relating to air pollution.
- (2) Within 30 days of receipt of such notice, the commission may require, as a condition precedent to approval of the construction, the submission of plans and specifications. After examination thereof, the commission may request corrections and revisions to the plans and specifications. The commission may also require any other information concerning air contaminant emissions as is necessary to determine whether the proposed construction is in accordance with the provisions of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B and applicable rules or standards adopted pursuant thereto.
- (3) If the commission determines that the proposed construction is in accordance with the provisions of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B and applicable rules or standards adopted pursuant thereto, it shall enter an order approving such construction. If the commission determines that the construction does not comply with the provisions of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B and applicable rules or standards adopted pursuant thereto, it shall notify the applicant and enter an order prohibiting the construction.
- (4) If within 60 days of the receipt of plans, specifications or any subsequently requested revisions or corrections to the plans and specifications or any other information required pursuant to this section, the commission fails to issue an order, the failure shall be considered a determination that the construction may proceed except where prohibited by federal law. The construction must comply with the plans, specifications and any corrections or revisions thereto or other information, if any, previously submitted.
- (5) Any person against whom the order is directed may, within 20 days from the date of mailing of the order, demand a hearing. The demand shall be in writing, shall state the grounds for hearing and shall be mailed to the Director of the Department of Environmental Quality. The hearing shall be conducted pursuant to the applicable provisions of ORS chapter 183.
- (6) The commission may delegate its duties under subsections (2) to (4) of this section to the Director of the Department of Environmental Quality. If the commission delegates its duties under this section, any person against whom an order of the director is directed may demand a hearing before the commission as provided in subsection (5) of this section.
- (7) For the purposes of this section, "construction" includes installation and establishment of new air contamination sources. Addition to or enlargement or replacement of an air contamination source, or any major alteration or modification therein that significantly affects the emission of air contaminants shall be considered as construction of a new air contamination source. [Formerly 468.325; 1993 c.790 §4]

468A.070 Measurement and testing of contamination sources; rules.

(1) Pursuant to rules adopted by the Environmental Quality Commission, the Department of Environmental Quality shall establish a program for measurement and testing of contamination sources and may perform such sampling or testing or may require any person in control of an air contamination source to perform the sampling or testing, subject to the provisions of subsections (2) to (4) of this section. Whenever samples of air or air contaminants are taken by the department for analysis, a duplicate of the analytical report shall be furnished promptly to the person owning or operating the air contamination source.

(2) The department may require any person in control of an air contamination source to provide necessary holes in stacks or ducts and proper sampling and testing facilities, as may be necessary and reasonable for the accurate determination of the nature, extent, quantity and degree of air contaminants which are emitted as the result of operation of the source.

(3) All sampling and testing shall be conducted in accordance with methods used by the department or equivalent methods of measurement acceptable to the department.

(4) All sampling and testing performed under this section shall be conducted in accordance with applicable safety rules and procedures established by law. [Formerly 449.702 and then 468.340]

DIVISION 12

ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-0026

Policy

(1) The goals of enforcement are to:

(a) Protect the public health and the environment;

(b) Obtain and maintain compliance with applicable environmental statutes and DEQ's rules, permits and orders;

(c) Deter future violators and violations; and

(d) Ensure an appropriate and consistent statewide enforcement program.

(2) DEQ shall endeavor by conference, conciliation and persuasion to solicit compliance.

(3) DEQ endeavors to address all alleged violations in order of priority, based on the actual or potential impact to human health or the environment, using increasing levels of enforcement as necessary to achieve the goals set forth in section (1) of this rule.

(4) DEQ subjects violators who do not comply with an initial enforcement action to increasing levels of enforcement until they come into compliance.

(5) DEQ endeavors to issue a formal enforcement action within six months from completion of the investigation of the violation.

Stat. Auth.: ORS 459.995, 466, 467, 468.020, 468.996, 468A & 468B

Stats. Implemented: ORS 183.090, 454.635, 454.645, 459.376, 459.995, 465.900, 466.210, 466.880 - 895, 468.090 - 140, 468A.990, 468.992, 468B.025, 468B.220 & 468B.450

Hist.: DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0028

Scope of Applicability

Amendments to OAR 340-012-0026 to 340-012-0170 shall only apply to formal enforcement actions issued by DEQ on or after the effective date of such amendments and not to any contested cases pending or formal enforcement actions issued prior to the effective date of such amendments.

Stat. Auth.: ORS 454, 459.995, 466, 467, 468.020 & 468.996

Stats. Implemented: ORS 183.090, 454.635, 454.645, 459.376, 459.995, 465.900, 466.210, 466.880 - 895, 468.090 - 140, 468A.990, 468.992, 468B.025, 468B.220 & 468B.450

Hist.: DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92, Renumbered from 340-012-0080; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0030

Definitions

All terms used in this division have the meaning given to the term in the appropriate substantive statute or rule or, in the absence of such definition, their common and ordinary meaning unless otherwise required by context or defined below:

- (1) "Alleged Violation" means any violation cited in a written notice issued by DEQ or other government agency.
- (2) "Class I Equivalent," which is used to determine the value of the "P" factor in the civil penalty formula, means two Class II violations, one Class II and two Class III violations, or three Class III violations.
- (3) "Commission" means the Environmental Quality Commission.
- (4) "Compliance" means meeting the requirements of the applicable statutes, and commission or DEQ rules, permits or orders.
- (5) "Conduct" means an act or omission.
- (6) "Director" means the director of DEQ or the director's authorized deputies or officers.
- (7) "DEQ" means the Department of Environmental Quality.
- (8) "Expedited Enforcement Offer" (EEO) means a written offer by DEQ to settle an alleged violation pursuant to the expedited procedure described in OAR 340-012-0170(2).
- (9) "Field Penalty" as used in this division, has the meaning given that term in OAR chapter 340, division 150.

(10) "Final Order and Stipulated Penalty Demand Notice" means a written notice issued to a respondent by DEQ demanding payment of a stipulated penalty pursuant to the terms of an agreement entered into between the respondent and DEQ.

(11) "Flagrant" or "flagrantly" means the respondent had actual knowledge that the conduct was unlawful and consciously set out to commit the violation.

(12) "Formal Enforcement Action" (FEA) means a proceeding initiated by DEQ that entitles a person to a contested case hearing or that settles such entitlement, including, but not limited to, Notices of Civil Penalty Assessment and Order, Final Order and Stipulated Penalty Demand Notices, department or commission orders originating with the Office of Compliance and Enforcement, Mutual Agreement and Orders, accepted Expedited Enforcement Offers, Field Penalties, and other consent orders.

(13) "Intentional" means the respondent acted with a conscious objective to cause the result of the conduct.

(14) "Magnitude of the Violation" means the extent and effects of a respondent's deviation from statutory requirements, rules, standards, permits or orders.

(15) "Negligence" or "Negligent" means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation.

(16) "Notice of Civil Penalty Assessment and Order" means a notice provided under OAR 137-003-0505 to notify a person that DEQ has initiated a formal enforcement action that includes a financial penalty and may include an order to comply.

(17) "Pre-Enforcement Notice" (PEN) means an informal written notice of an alleged violation that DEQ is considering for formal enforcement.

(18) "Person" includes, but is not limited to, individuals, corporations, associations, firms, partnerships, trusts, joint stock companies, public and municipal corporations, political subdivisions, states and their agencies, and the federal government and its agencies.

(19) "Prior Significant Action" (PSA) means any violation cited in an FEA, with or without admission of a violation, that becomes final by payment of a civil penalty, by a final order of the commission or DEQ, or by judgment of a court.

(20) "Reckless" or "Recklessly" means the respondent consciously disregarded a substantial and unjustifiable risk that the result would occur or that the circumstance existed. The risk must be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation.

(21) "Residential Owner-Occupant" means the natural person who owns or otherwise possesses a single family dwelling unit, and who occupies that dwelling at the time of the alleged violation. The violation must involve or relate to the normal uses of a dwelling unit.

(22) "Respondent" means the person named in a formal enforcement action (FEA).

(23) "Systematic" means any violation that occurred or occurs on a regular basis.

(24) "Violation" means a transgression of any statute, rule, order, license, permit, or any part thereof and includes both acts and omissions.

(25) "Warning Letter" (WL) means an informal written notice of an alleged violation for which formal enforcement is not anticipated.

(26) "Willful" means the respondent had a conscious objective to cause the result of the conduct and the respondent knew or had reason to know that the result was not lawful.

Stat. Auth.: ORS 468.020 & 468.130

Stats. implemented: ORS 459.376, 459.995, 465.900, 468.090-140, 466.880 - 466.895, 468.996 - 468.997, 468A.990 -468A.992 & 468B.220

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 22-1984, f. & ef. 11-8-84; DEQ 22-1988, f. & cert. ef. 9-14-88; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0038

Warning Letters, Pre-Enforcement Notices, and Notices of Permit Violation

(1) A Warning Letter (WL) may contain an opportunity to correct noncompliance as a means of avoiding formal enforcement. A WL generally will identify the alleged violation(s) found, what needs to be done to comply, and the consequences of further noncompliance. WLs will be issued under the direction of a manager or authorized representative. A person receiving a WL may provide information to DEQ to clarify the facts surrounding the alleged violation(s). If DEQ determines that the conduct identified in the WL did not occur, DEQ will withdraw or amend the WL, as appropriate, within 30 days. A WL is not an FEA and does not afford any person a right to a contested case hearing.

(2) A Pre-Enforcement Notice (PEN) generally will identify the alleged violations found, what needs to be done to comply, the consequences of further noncompliance, and the formal enforcement process that may occur. PENs will be issued under the direction of a manager or authorized representative. A person receiving a PEN may provide information to DEQ to clarify the facts surrounding the alleged violations. If DEQ determines that the conduct identified in the PEN did not occur, DEQ will withdraw or amend the PEN, as appropriate, within 30 days. Failure to send a PEN does not preclude DEQ from issuing an FEA. A PEN is not a formal enforcement action and does not afford any person a right to a contested case hearing.

(3) Notice of Permit Violation (NPV):

(a) Except as provided in subsection (3)(e) below, an NPV will be issued for the first occurrence of an alleged Class I violation of an air, water or solid waste permit issued by DEQ, and for repeated or continuing alleged Class II or Class III violations of an air, water, or solid waste permit issued by DEQ when a WL has failed to achieve compliance or satisfactory progress toward compliance.

(b) An NPV must be in writing, specify the violation and state that a civil penalty will be imposed for the permit violation unless the permittee submits one of the following to DEQ within five working days of receipt of the NPV:

(A) A written response from the permittee certifying that the permittee is complying with all terms and conditions of the permit from which the violation is cited. The response must include a description of the information on which the permittee's certification relies sufficient to enable DEQ to determine that compliance has been achieved. The certification must be signed by a Responsible Official based on information and belief after making reasonable inquiry. For purposes of this rule, "Responsible Official" means one of the following:

(i) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or the manager of one or more manufacturing, production, or operating facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) For a partnership or sole proprietorship: a general partner or the proprietor, respectively.

(iii) For a municipality, state, federal, or other public agency: either a principal executive officer or appropriate elected official.

(B) A written proposal, acceptable to DEQ, describing how the permittee will bring the facility into compliance with the permit. At a minimum, an acceptable proposal must include the following:

(i) A detailed plan and time schedule for achieving compliance in the shortest practicable time;

(ii) A description of the interim steps that will be taken to reduce the impact of the permit violation until the permittee is in compliance with the permit; and

(iii) A statement that the permittee has reviewed all other conditions and limitations of the permit and no other violations of the permit were discovered; or

(C) For a water quality permit violation, a written request to DEQ that DEQ follow procedures described in ORS 468B.032. Notwithstanding the requirement for a response to DEQ within five working days, the permittee may file a request under this paragraph within 20 days from the date of service of the NPV.

(c) If a compliance schedule approved by DEQ under paragraph (3)(b)(B) provides for a compliance period of more than six months, the compliance schedule must be incorporated into a final order that provides for stipulated penalties in the event of any failure to comply with the approved schedule. The stipulated penalties may be set at amounts equivalent to the base penalty amount appropriate for the underlying violation as set forth in OAR 340-012-0140;

(d) If the NPV is issued by a regional authority, the regional authority may require that the permittee submit information in addition to that described in subsection (3)(b).

(e) DEQ may assess a penalty without first issuing an NPV if:

- (A) The violation is intentional;
- (B) The water or air violation would not normally occur for five consecutive days;
- (C) The permittee has received an NPV or an FEA with respect to any violation of the permit within the 36 months immediately preceding the alleged violation;
- (D) The permittee is subject to the Oregon Title V operating permit program and violates any rule or standard adopted under ORS Chapter 468A or any permit or order issued under Chapter 468A; or
- (E) The requirement to provide an NPV would disqualify a state program from federal approval or delegation. The permits and permit conditions to which this NPV exception applies include:
 - (i) Air Contaminant Discharge Permit (ACDP) conditions that implement the State Implementation Plan under the federal Clean Air Act;
 - (ii) Water Pollution Control Facility (WPCF) permit or rule authorization conditions that implement the Underground Injection Control program under the federal Safe Drinking Water Act;
 - (iii) National Pollutant Discharge Elimination System (NPDES) Permit conditions; and
 - (iv) Municipal Landfill Solid Waste Disposal Permit conditions that implement Subtitle D of the federal Solid Waste Disposal Act.
- (f) For purposes of section (3), a permit renewal or modification does not result in the requirement that DEQ provide the permittee with an additional advance notice before formal enforcement if the permittee has received an NPV, or other FEA, with respect to the permit, within the 36 months immediately preceding the alleged violation.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 459.376, 468.090 - 468.140, 468A.990 & 468B.025

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 25-1979, f. & ef. 7-5-79; DEQ 22-1984, f. & ef. 11-8-84; DEQ 16-1985, f. & ef. 12-3-85; DEQ 22-1988, f. & cert. ef. 9-14-88; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; Renumbered from 340-012-0040, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0041

Formal Enforcement Actions

(1) FEAs may require that the respondent take action within a specified timeframe or may assess civil penalties. DEQ may issue an NPV or FEA whether or not it has previously issued a WL or PEN related to the issue or violation. Unless specifically prohibited by statute or rule, DEQ may issue an FEA without first issuing an NPV.

(2) A Notice of Civil Penalty Assessment and Order may be issued for the occurrence of any class of violation that is not limited by the NPV requirement of OAR 340-012-0038(3).

(3) An Order may be in the form of a commission or department order, including any written order that has been consented to in writing by the parties thereto, including but not limited to, a Mutual Agreement and Order (MAO).

(4) A Final Order and Stipulated Penalty Demand Notice may be issued according to the terms of any written final order that has been consented to in writing by the parties thereto, including, but not limited to, a MAO.

(5) A pre-enforcement offer to settle may be made pursuant to DEQ's expedited enforcement procedures in OAR 340-012-0170(2) or Field Penalty procedures prescribed by OAR chapter 340, division 150.

(6) The enforcement actions described in sections (2) through (5) of this rule in no way limit DEQ or commission from seeking any other legal or equitable remedies, including revocation of any DEQ-issued license or permit, provided by ORS Chapters 183, 454, 459, 465, 466, 467, 468, 468A, and 468B.

Stat. Auth.: ORS 454.625, 459.376, 465.400-410, 466.625, 467.030, 468.020, 468A.025, 468A.045 & 468B.035

Stats. Implemented: ORS 454.635, 454.645, 459.376, 459.995, 465.900, 466.210, 466.880-895, 468.090-140, 468A.990, 468.992, 468B.025, 468B.220 & 468B.450 Hist.: DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0045

Civil Penalty Determination Procedure

DEQ may assess a civil penalty for any violation, in addition to any other liability, duty, or other penalty provided by law. Except for civil penalties assessed under either OAR 340-012-0155 or OAR 340-012-0160, DEQ determines the amount of the civil penalty using the following formula: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$.

(1) BP is the base penalty and is determined by the following procedure:

(a) The classification of each violation is determined according to OAR 340-012-0053 to 340-012-0097.

(b) The magnitude of the violation is determined according to OAR 340-012-0130 and 340-012-0135.

(c) The appropriate base penalty (BP) for each violation is determined by applying the classification and magnitude of each violation to the matrices in OAR 340-012-0140.

(2) The base penalty is adjusted by the application of aggravating or mitigating factors set forth in OAR 340-012-0145.

(3) The appropriate economic benefit (EB) is determined as set forth in OAR 340-012-0150.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 454.635, 454.645, 459.376, 459.995, 465.900, 466.210, 466.880-895, 468.090-140, 468.992, 468A.990, 468B.025, 468B.220 & 468B.450

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 22-1984, f. & ef. 11-8-84; DEQ 22-1988, f. & cert. ef. 9-14-88; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 1-2003, f. & cert. ef. 1-31-03; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0053

Classification of Violations that Apply to all Programs

(1) Class I:

(a) Violating a requirement or condition of a commission or department order, consent order, agreement, consent judgment (formerly called judicial consent decree) or compliance schedule contained in a permit;

(b) Submitting false, inaccurate or incomplete information to DEQ where the submittal masked a violation, caused environmental harm, or caused DEQ to misinterpret any substantive fact;

(c) Failing to provide access to premises or records as required by statute, permit, order, consent order, agreement or consent judgment (formerly called judicial consent decree); or

(d) Using fraud or deceit to obtain DEQ approval, permit, certification, or license.

(2) Class II: Violating any otherwise unclassified requirement.

Stat. Auth.: ORS 468.020 & 468.130

Stats. Implemented: ORS 459.376, 459.995, 465.900, 465.992, 466.990 - 466.994, 468.090 - 468.140 & 468B.450

Hist.: DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0054

Air Quality Classification of Violations

(1) Class I:

(a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;

- (b) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;
- (c) Exceeding a Plant Site Emission Limit (PSEL);
- (d) Failing to install control equipment or meet performance standards as required by New Source Performance Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;
- (e) Exceeding a hazardous air pollutant emission limitation;
- (f) Failing to comply with an Emergency Action Plan;
- (g) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established pursuant to New Source Review/Prevention of Significant Deterioration (NSR/PSD);
- (h) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;
- (i) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;
- (j) Failing to perform testing or monitoring, required by a permit, rule or order, that results in failure to show compliance with a Plant Site Emission Limit (PSEL) or with an emission limitation or a performance standard set pursuant to New Source Review/Prevention of Significant Deterioration (NSR/PSD), National Emission Standards for Hazardous Air Pollutants (NESHAP), New Source Performance Standards (NSPS), Reasonably Available Control Technology (RACT), Best Achievable Control Technology (BACT), Maximum Achievable Control Technology (MACT), Typically Achievable Control Technology (TACT), Lowest Achievable Emission Rate (LAER) or adopted pursuant to section 111(d) of the Federal Clean Air Act;
- (k) Causing emissions that are a hazard to public safety;
- (l) Violating a work practice requirement for asbestos abatement projects;
- (m) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;
- (n) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;
- (o) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;
- (p) Failing to hire a licensed contractor to conduct an asbestos abatement project;

(q) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3), or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1);

(r) Failing to install certified vapor recovery equipment;

(s) Delivering for sale a noncompliant vehicle by an automobile manufacturer in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(t) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;

(u) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements set forth in OAR 340 division 257;

(v) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;

(w) Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257; or

(x) Failing to comply with any of the clean fuel standards set forth in OAR 340-253-0100(6), OAR 340-253-8010 (Table 1) and OAR 340-253-8020 (Table 2).

(2) Class II:

(a) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP) or registration without first obtaining such permit or registration, unless otherwise classified;

(b) Violating the terms or conditions of a permit or license, unless otherwise classified;

(c) Modifying a source in such a way as to require a permit modification from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Exceeding an opacity limit, unless otherwise classified;

(e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;

(f) Failing to timely submit a complete ACDP annual report;

(g) Failing to timely submit a certification, report, or plan as required by rule or permit, unless otherwise classified;

(h) Failing to timely submit a complete permit application or permit renewal application;

(i) Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;

- (j) Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified; or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2).
 - (k) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;
 - (l) Failing to provide timely, accurate or complete notification of an asbestos abatement project;
 - (m) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project;
 - (n) Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620; or
 - (o) Failing to comply with an Oregon Low Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257;
 - (p) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is a producer or importer of blendstocks, as those terms are defined in OAR 340-253-0040;
 - (q) Failing to submit a broker designation form under OAR 340-253-0100(3) and (4)(c);
 - (r) Failing to keep records under OAR 340-253-0600 when the records relate to obtaining a carbon intensity under OAR 340-253-0450; or
 - (s) Failing to keep records related to obtaining a carbon intensity under OAR 340-253-0450; or
 - (t) Failing to submit an annual compliance report under OAR 340-253-0100(8).
- (3) Class III:
- (a) Failing to perform testing or monitoring required by a permit, rule or order where missing data can be reconstructed to show compliance with standards, emission limitations or underlying requirements;
 - (b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;
 - (c) Modifying a source in such a way as to require construction approval from DEQ without first obtaining such approval from DEQ, unless otherwise classified;
 - (d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified;
 - (e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project; or

- (f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;
- (g) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is an importer of finished fuels, as those terms are defined in OAR 340-253-0040;
- (h) Failing to keep records under OAR 340-253-0600, except as provided in subsection (2)(r); or
- (i) Failing to submit quarterly progress reports under OAR 340-253-0100(7).

[Ed. Note: Tables and Publications referenced are available from the agency.]

Stat. Auth.: ORS 468.020, 468A.025 & 468A.045

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 5-1980, f. & ef. 1-28-80; DEQ 22-1984, f. & ef. 11-8-84; DEQ 22-1988, f. & cert. ef. 9-14-88; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 31-1990, f. & cert. ef. 8-15-90; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; Renumbered from 340-012-0050, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-012-0130

Determination of Violation Magnitude

- (1) The appropriate magnitude of each civil penalty is determined by first applying the selected magnitude in OAR 340-012-0135. If none is applicable, the magnitude is moderate unless evidence shows that the magnitude is major under paragraph (3) or minor under paragraph (4).
- (2) The person against whom the violation is alleged has the opportunity and the burden to prove that a magnitude under paragraph (1), (3) or (4) of this rule is more probable than the alleged magnitude, regardless of whether the magnitude is alleged under OAR 340-012-0130 or 340-012-0135.
- (3) The magnitude of the violation is major if DEQ finds that the violation had a significant adverse impact on human health or the environment. In making this finding, DEQ will consider all reasonably available information, including, but not limited to: the degree of deviation from applicable statutes or commission and DEQ rules, standards, permits or orders; the extent of actual effects of the violation; the concentration, volume, or toxicity of the materials involved; and the duration of the violation. In making this finding, DEQ may consider any single factor to be conclusive.
- (4) The magnitude of the violation is minor if DEQ finds that the violation had no more than a de minimis adverse impact on human health or the environment, and posed no more than a de minimis

threat to human health or the environment. In making this finding, DEQ will consider all reasonably available information including, but not limited to: the degree of deviation from applicable statutes or commission and DEQ rules, standards, permits or orders; the extent of actual or threatened effects of the violation; the concentration, volume, or toxicity of the materials involved; and the duration of the violation.

Stat. Auth.: ORS 468.020 & 468.130

Stats. Implemented: ORS 459.376, 459.995, 465.900, 465.992, 466.990 - 466.994, 468.090 - 468.140 & 468B.450

Hist.: DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0135

Selected Magnitude Categories

(1) Magnitudes for selected Air Quality violations will be determined as follows:

(a) Opacity limit violations:

(A) Major — Opacity measurements or readings of 20 percent opacity or more over the applicable limit, or an opacity violation by a federal major source as defined in OAR 340-200-0020;

(B) Moderate — Opacity measurements or readings greater than 10 percent opacity and less than 20 percent opacity over the applicable limit; or

(C) Minor — Opacity measurements or readings of 10 percent opacity or less over the applicable limit.

(b) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit: Major — if a Lowest Achievable Emission Rate (LAER) or Best Achievable Control Technology (BACT) analysis shows that additional controls or offsets are or were needed, otherwise apply OAR 340-012-0130.

(c) Exceeding an emission limit established pursuant to New Source Review/Prevention of Significant Deterioration (NSR/PSD): Major — if exceeded the emission limit by more than 50 percent of the limit, otherwise apply OAR 340-012-0130.

(d) Exceeding an emission limit established pursuant to federal National Emission Standards for Hazardous Air Pollutants (NESHAPs): Major — if exceeded the Maximum Achievable Control Technology (MACT) standard emission limit for a directly-measured hazardous air pollutant (HAP), otherwise apply OAR 340-012-0130.

(e) Air contaminant emission limit violations for selected air pollutants: Magnitude determinations under this subsection will be made based upon significant emission rate (SER) amounts listed in OAR 340-200-0020 (Tables 2 and 3).

(A) Major:

(i) Exceeding the annual emission limit as established by permit, rule or order by more than the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by more than the applicable short-term SER.

(B) Moderate:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the annual SER; or

(ii) Exceeding the short-term (less than one-year) emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the applicable short-term SER.

(C) Minor:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount less than 50 percent of the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by an amount less than 50 percent of the applicable short-term SER.

(f) Violations of Emergency Action Plans: Major — Major magnitude in all cases.

(g) Violations of on road motor vehicle refinishing rules contained in OAR 340-242-0620: Minor — Refinishing 10 or fewer on road motor vehicles per year.

(h) Asbestos violations — These selected magnitudes apply unless the violation does not cause the potential for human exposure to asbestos fibers:

(A) Major — More than 260 linear feet or more than 160 square feet of asbestos-containing material or asbestos-containing waste material;

(B) Moderate — From 40 linear feet up to and including 260 linear feet or from 80 square feet up to and including 160 square feet of asbestos-containing material or asbestos-containing waste material; or

(C) Minor — Less than 40 linear feet or 80 square feet of asbestos-containing material or asbestos-containing waste material.

(D) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than five percent asbestos.

(i) Open burning violations:

(A) Major — Initiating or allowing the initiation of open burning of 20 or more cubic yards of commercial, construction, demolition and/or industrial waste; or 5 or more cubic yards of prohibited materials (inclusive of tires); or 10 or more tires;

(B) Moderate — Initiating or allowing the initiation of open burning of 10 or more, but less than 20 cubic yards of commercial, construction, demolition and/or industrial waste; or 2 or more, but less than 5 cubic yards of prohibited materials (inclusive of tires); or 3 to 9 tires; or if DEQ lacks sufficient information upon which to make a determination of the type of waste, number of cubic yards or number of tires burned; or

(C) Minor — Initiating or allowing the initiation of open burning of less than 10 cubic yards of commercial, construction, demolition and/or industrial waste; or less than 2 cubic yards of prohibited materials (inclusive of tires); or 2 or less tires.

(D) The selected magnitude may be increased one level if DEQ finds that one or more of the following are true, or decreased one level if DEQ finds that none of the following are true:

(i) The burning took place in an open burning control area;

(ii) The burning took place in an area where open burning is prohibited;

(iii) The burning took place in a non-attainment or maintenance area for PM10 or PM2.5; or

(iv) The burning took place on a day when all open burning was prohibited due to meteorological conditions.

(j) Oregon Low Emission Vehicle Non-Methane Gas (NMOG) or Green House Gas (GHG) fleet average emission limit violations:

(A) Major — Exceeding the limit by more than 10 percent; or

(B) Moderate — Exceeding the limit by 10 percent or less.

(k) Oregon Clean Fuels Program violations:

(A) Exceeding the clean fuel standards set forth in OAR 340-253-0100(6), 340-253-8010 (Table 1) and 340-253-8020 (Table 2) by:

(i) Major — more than 15 percent;

(ii) Moderate — more than 10 percent but less than 15 percent;

(iii) Minor — 10 percent or less.

(B) Failing to register under OAR 340-253-0100(1) and (4): Minor — producers and importers of blendstocks;

(C) Failing to submit broker designation form under OAR 340-253-0100(3) and (4)(c): Minor; or

(D) Failing to keep records as set forth in OAR 340-253-0600, when the records relate to obtaining a carbon intensity under OAR 340-253-04500600: Minor; or

(E) Failing to submit annual compliance reports under OAR 340-253-0100(8): Moderate.

(2) Magnitudes for selected Water Quality violations will be determined as follows:

(a) Violating wastewater discharge permit effluent limitations:

(A) Major:

(i) The dilution (D) of the spill or technology based effluent limitation exceedance was less than two, when calculated as follows: $D = ((QR / 4) + QI) / QI$, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the incident;

(ii) The receiving stream flow at the time of the water quality based effluent limitation (WQBEL) exceedance was at or below the flow used to calculate the WQBEL; or

(iii) The resulting water quality from the spill or discharge was as follows:

(I) For discharges of toxic pollutants: CS/D was more than CA_{acute} , where CS is the concentration of the discharge, D is the dilution of the discharge as determined under (2)(a)(A)(i), and CA_{acute} is the concentration for acute toxicity (as defined by the applicable water quality standard);

(II) For spills or discharges affecting temperature, when the discharge temperature is at or above 32 degrees centigrade after two seconds from the outfall; or

(III) For BOD5 discharges: $(BOD5)/D$ is more than 10, where BOD5 is the concentration of the five-day Biochemical Oxygen Demand of the discharge and D is the dilution of the discharge as determined under (2)(a)(A)(i).

(B) Moderate:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was two or more but less than 10 when calculated as follows: $D = ((QR / 4) + QI) / QI$, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the discharge; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was greater than, but less than twice, the flow used to calculate the WQBEL.

(C) Minor:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was 10 or more when calculated as follows: $D = ((QR / 4) + QI) / QI$, where QR is the receiving stream flow and QI is the quantity or discharge rate of the incident; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was twice the flow or more of the flow used to calculate the WQBEL.

(b) Violating numeric water quality standards:

(A) Major:

- (i) Increased the concentration of any pollutant except for toxics, dissolved oxygen, pH, and turbidity, by 25 percent or more of the standard;
- (ii) Decreased the dissolved oxygen concentration by two or more milligrams per liter below the standard;
- (iii) Increased the toxic pollutant concentration by any amount over the acute standard or by 100 percent or more of the chronic standard;
- (iv) Increased or decreased pH by one or more pH units from the standard; or
- (v) Increased turbidity by 50 or more nephelometric turbidity units (NTU) over background.

(B) Moderate:

- (i) Increased the concentration of any pollutant except for toxics, pH, and turbidity by more than 10 percent but less than 25 percent of the standard;
- (ii) Decreased dissolved oxygen concentration by one or more, but less than two, milligrams per liter below the standard;
- (iii) Increased the concentration of toxic pollutants by more than 10 percent but less than 100 percent of the chronic standard;
- (iv) Increased or decreased pH by more than 0.5 pH unit but less than 1.0 pH unit from the standard;
or
- (v) Increased turbidity by more than 20 but less than 50 NTU over background.

(C) Minor:

- (i) Increased the concentration of any pollutant, except for toxics, pH, and turbidity, by 10 percent or less of the standard;
 - (ii) Decreased the dissolved oxygen concentration by less than one milligram per liter below the standard;
 - (iii) Increased the concentration of toxic pollutants by 10 percent or less of the chronic standard;
 - (iv) Increased or decreased pH by 0.5 pH unit or less from the standard; or
 - (v) Increased turbidity by 20 NTU or less over background.
- (c) The selected magnitude under (2)(a) or (b) may be increased one or more levels if the violation:

(A) Occurred in a water body that is water quality limited (listed on the most current 303(d) list) and the discharge is the same pollutant for which the water body is listed;

(B) Depressed oxygen levels or increased turbidity and/or sedimentation in a stream in which salmonids may be rearing or spawning as indicated by the beneficial use maps available at OAR 340-041-0101 through 0340;

(C) Violated a bacteria standard either in shellfish growing waters or during the period from June 1 through September 30; or

(D) Resulted in a documented fish or wildlife kill.

(3) Magnitudes for selected Solid Waste violations will be determined as follows:

(a) Operating a solid waste disposal facility without a permit or disposing of solid waste at an unpermitted site:

(A) Major — The volume of material disposed of exceeds 400 cubic yards;

(B) Moderate — The volume of material disposed of is greater than or equal to 40 cubic yards and less than or equal to 400 cubic yards; or

(C) Minor — The volume of materials disposed of is less than 40 cubic yards.

(D) The magnitude of the violation may be raised by one magnitude if the material disposed of was either in the floodplain of waters of the state or within 100 feet of waters of the state.

(b) Failing to accurately report the amount of solid waste disposed:

(A) Major — The amount of solid waste is underreported by 15 percent or more of the amount received;

(B) Moderate — The amount of solid waste is underreported by 5 percent or more, but less than 15 percent, of the amount received; or

(C) Minor — The amount of solid waste is underreported by less than 5 percent of the amount received.

(4) Magnitudes for selected Hazardous Waste violations will be determined as follows:

(a) Failure to make a hazardous waste determination;

(A) Major — Failure to make the determination on five or more waste streams;

(B) Moderate — Failure to make the determination on three or four waste streams; or

(C) Minor — Failure to make the determination on one or two waste streams.

(b) Hazardous Waste treatment, storage and disposal violations of OAR 340-012-0068(1)(b), (c), (h), (k), (l), (m), (p), (q) and (r):

(A) Major:

(i) Treatment, storage, or disposal of more than 55 gallons or 330 pounds of hazardous waste; or

(ii) Treatment, storage, or disposal of at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Treatment, storage, or disposal of 55 gallons or 330 pounds or less of hazardous waste; or

(ii) Treatment, storage, or disposal of less than one quart or 2.2 pounds of acutely hazardous waste.

(c) Hazardous waste management violations classified in OAR 340-012-0068(1)(d), (e) (f), (g), (i), (j), (n), (s) and (2)(a), (b), (d), (e), (h), (i), (k), (m), (n), (o), (p), (r) and (s):

(A) Major:

(i) Hazardous waste management violations involving more than 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Hazardous waste management violations involving more than 250 gallons or 1,500 pounds, up to and including 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving less than one quart or 2.2 pounds of acutely hazardous waste.

(C) Minor:

(i) Hazardous waste management violations involving 250 gallons or 1,500 pounds or less of hazardous waste and no acutely hazardous waste.

(5) Magnitudes for selected Used Oil violations (OAR 340-012-0072) will be determined as follows:

(a) Used Oil violations set forth in OAR 340-012-0072(1)(f), (h), (i), (j); and (2)(a) through (h):

(A) Major — Used oil management violations involving more than 1,000 gallons or 7,000 pounds of used oil or used oil mixtures;

(B) Moderate — Used oil management violations involving more than 250 gallons or 1,750 pounds, up to and including 1,000 gallons or 7,000 pounds of used oil or used oil mixture; or

(C) Minor — Used oil management violations involving 250 gallons or 1,750 pounds or less of used oil or used oil mixtures.

(b) Used Oil spill or disposal violations set forth in OAR 340-012-0072(1)(a) through (e), (g) and (k).

(A) Major — A spill or disposal involving more than 420 gallons or 2,940 pounds of used oil or used oil mixtures;

(B) Moderate — A spill or disposal involving more than 42 gallons or 294 pounds, up to and including 420 gallons or 2,940 pounds of used oil or used oil mixtures; or

(C) Minor — A spill or disposal of used oil involving 42 gallons or 294 pounds or less of used oil or used oil mixtures.

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

Stat. Auth.: ORS 468.065 & 468A.045

Stats. Implemented: ORS 468.090 - 468.140 & 468A.060

Hist.: DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 1-2003, f. & cert. ef. 1-31-03; Renumbered from 340-012-0090, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-012-0140

Determination of Base Penalty

(1) Except for Class III violations and as provided in OAR 340-012-0155, the base penalty (BP) is determined by applying the class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) \$12,000 Penalty Matrix:

(a) The \$12,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued pursuant to New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the federal Clean Air Act.

(B) Open burning violations as follows:

(i) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit.

(ii) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(C) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) by an automobile manufacturer.

(D) Any violation of ORS 468B.025(1)(a) or (1)(b), or of 468B.050(1)(a) by a person without a National Pollutant Discharge Elimination System (NPDES) permit, unless otherwise classified.

(E) Any violation of a water quality statute, rule, permit or related order by:

(i) A person that has an NPDES permit, or that has or should have a Water Pollution Control Facility (WPCF) permit, for a municipal or private utility sewage treatment facility with a permitted flow of five million or more gallons per day.

(ii) A person that has a Tier 1 industrial source NPDES or WPCF permit.

(iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has an NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.

(iv) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.

(v) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that disturbs 20 or more acres.

(F) Any violation of the ballast water statute in ORS Chapter 783 or ballast water management rule in OAR 340, division 143.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification by a 100 megawatt or more hydroelectric facility.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a dredge and fill project except for Tier 1, 2A or 2B projects.

(I) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by DEQ to perform tank services.

(J) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by DEQ to perform heating oil tank services.

(K) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.

(L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.

(M) Any violation of a hazardous waste statute, rule, permit or related order by:

- (i) A person that is a large quantity generator or hazardous waste transporter.
- (ii) A person that has or should have a treatment, storage or disposal facility permit.

(N) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a covered vessel or facility as defined in ORS 468B.300 or by a person who is engaged in the business of manufacturing, storing or transporting oil or hazardous materials.

(O) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.

(P) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.

(Q) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:

- (i) A person that has or should have a solid waste disposal permit.
- (ii) A person with a population of 25,000 or more, as determined by the most recent national census.

(R) Any violation of the Oregon Clean Fuels Program under OAR 340 division 253 by a person registered as an importer of blendstocks.

(b) The base penalty values for the \$12,000 penalty matrix are as follows:

(A) Class I:

- (i) Major — \$12,000;
- (ii) Moderate — \$6,000;
- (iii) Minor — \$3,000.

(B) Class II:

- (i) Major — \$6,000;
- (ii) Moderate — \$3,000;
- (iii) Minor — \$1,500.

(C) Class III: \$1,000.

(3) \$8,000 Penalty Matrix:

(a) The \$8,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits, unless listed under another penalty matrix.

(B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.

(C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.

(D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) committed by an automobile dealer or an automobile rental agency.

(E) Any violation of a water quality statute, rule, permit or related order committed by:

(i) A person that has an NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.

(ii) A person that has a Tier 2 industrial source NPDES or WPCF Permit.

(iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of less than five acres in size or 20 or more acres in size.

(iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4 Stormwater Discharge Permit.

(v) A person that owns, and that has or should have registered, a UIC system that disposes of wastewater other than stormwater or sewage or geothermal fluids.

(F) Any violation of a Clean Water Act Section 401 Water Quality Certification by a less than 100 megawatt hydroelectric facility.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 2A or Tier 2B dredge and fill project.

(H) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of five to nine UST facilities.

(I) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a waste tire permit; or

(ii) A person with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.

(J) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a small quantity generator.

(K) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person other than a person listed in OAR 340-012-0140(2)(a)(N) occurring during a commercial activity or involving a derelict vessel over 35 feet in length.

(L) Any violation of the Oregon Clean Fuels Program under OAR 340 division 253 by a person registered as a credit generator.

(b) The base penalty values for the \$8,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$8,000.

(ii) Moderate — \$4,000.

(iii) Minor — \$2,000.

(B) Class II:

(i) Major — \$4,000.

(ii) Moderate — \$2,000.

(iii) Minor — \$1,000.

(C) Class III: \$ 700.

(4) \$3,000 Penalty Matrix:

(a) The \$3,000 penalty matrix applies to the following:

(A) Any violation of any statute, rule, permit, license, or order committed by a person not listed under another penalty matrix.

(B) Any violation of an air quality statute, rule, permit or related order committed by a person not listed under another penalty matrix.

(C) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations.

(D) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(E) Any violation of a vehicle inspection program statute, rule, permit or related order committed by a natural person, except for those violations listed in section (5) of this rule.

(F) Any violation of a water quality statute, rule, permit, license or related order not listed under another penalty matrix and committed by:

(i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility wastewater treatment facility with a permitted flow of less than two million gallons per day.

(ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.

(iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.

(iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.

(v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater, sewage or geothermal fluids.

(vi) A person that has or should have a WPCF individual stormwater UIC system permit.

(vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.

(G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.

(I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.

(J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.

(K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a conditionally exempt generator, unless listed under another penalty matrix.

(L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.

(M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.

(N) Any violation of rigid pesticide container disposal requirements by a conditionally exempt generator of hazardous waste.

(O) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.

(P) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.

(Q) Any violation of the Oregon Clean Fuels Program under OAR 340 division 253 by a person registered as an importer of finished fuels.

(b) The base penalty values for the \$3,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$3,000;

(ii) Moderate — \$1,500;

(iii) Minor — \$750.

(B) Class II:

(i) Major — \$1,500;

(ii) Moderate — \$750;

(iii) Minor — \$375.

(C) Class III: \$250.

(5) \$1,000 Penalty Matrix:

(a) The \$1,000 penalty matrix applies to the following:

(A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.

(B) Any violation of visible emissions standards by operation of a vehicle.

- (C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.
- (D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.
- (E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.
- (F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.
- (G) Any violation of OAR chapter 340, division 124 or ORS 465.505 by a dry cleaning owner or operator, dry store owner or operator, or supplier of perchloroethylene.
- (H) Any violation of ORS Chapter 459 or other solid waste statute, rule or related order committed by a residential owner-occupant.
- (I) Any violation of a statute, rule, permit or order relating to rigid plastic containers, except for violation of the labeling requirements under OAR 459A.675 through 459A.685.
- (J) Any violation of a statute, rule or order relating to the opportunity to recycle.
- (K) Any violation of OAR chapter 340, division 262 or other statute, rule or order relating to solid fuel burning devices, except a violation related to the sale of new or used solid fuel burning devices or the removal and destruction of used solid fuel burning devices.
- (L) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater, sewage or geothermal fluids.
- (M) Any Violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by residential use of property disturbing less than one acre in size.
- (b) The base penalty values for the \$1,000 penalty matrix are as follows:
- (A) Class I:
- (i) Major — \$1,000;
- (ii) Moderate — \$500;
- (iii) Minor — \$250.
- (B) Class II:
- (i) Major — \$500;
- (ii) Moderate — \$250;

(iii) Minor — \$125.

(C) Class III: \$100.

Stat. Auth.: ORS 468.020 & 468.090 - 468.140

Stats. Implemented: ORS 459.995, 459A.655, 459A.660, 459A.685 & 468.035

Hist.: DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 33-1990, f. & cert. ef. 8-15-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; Renumbered from 340-012-0042, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-012-0145

Determination of Aggravating or Mitigating Factors

(1) Each of the aggravating or mitigating factors is determined, as described below, and then applied to the civil penalty formula in OAR 340-012-0045.

(2) "P" is whether the respondent has any prior significant actions (PSAs). A violation becomes a PSA on the date the first formal enforcement action (FEA) in which it is cited is issued.

(a) Except as otherwise provided in this section, the values for "P" and the finding that supports each are as follows:

(A) 0 if no PSAs or there is insufficient information on which to base a finding under this section.

(B) 1 if the PSAs included one Class II violation or two Class III violations; or

(C) 2 if the PSAs included one Class I violation or Class I equivalent.

(D) For each additional Class I violation or Class I equivalent, the value of "P" is increased by 1.

(b) The value of "P" will not exceed 10.

(c) If any of the PSAs were issued under ORS 468.996, the final value of "P" will be 10.

(d) In determining the value of "P," DEQ will:

(A) Reduce the value of "P" by:

(i) 2 if all the FEAs in which PSAs were cited were issued more than three years before the date the current violation occurred.

(ii) 4 if all the FEAs in which PSAs were cited were issued more than five years before the date the current violation occurred.

(B) Include the PSAs:

- (i) At all facilities owned or operated by the same respondent within the state of Oregon; and
 - (ii) That involved the same media (air, water or land) as the violations that are the subject of the current FEA.
- (e) In applying subsection (2)(d)(A), the value of "P" may not be reduced below zero.
- (f) PSAs that are more than ten years old are not included in determining the value of "P."
- (3) "H" is the respondent's history of correcting PSAs. The values for "H" and the finding that supports each are as follows:
- (a) -2 if the respondent corrected all prior violations cited as PSAs.
 - (b) -1 if the violations were uncorrectable and the respondent took reasonable efforts to minimize the effects of the violations cited as PSAs; or
 - (c) 0 if there is no prior history or if there is insufficient information on which to base a finding under paragraphs (3)(a) or (b).
 - (d) The sum of values for "P" and "H" may not be less than 1 unless the respondent took extraordinary efforts to correct or minimize the effects of all PSAs. In no case may the sum of the values of "P" and "H" be less than zero.
- (4) "O" is whether the violation was repeated or ongoing. A violation can be repeated independently on the same day, thus multiple occurrences may occur within one day. Each repeated occurrence of the same violation and each day of a violation with a duration of more than one day is a separate occurrence when determining the "O" factor. Each separate violation is also a separate occurrence when determining the "O" factor. The values for "O" and the finding that supports each are as follows:
- (a) 0 if there was only one occurrence of the violation, or if there is insufficient information on which to base a finding under paragraphs (4)(b) through (4)(d).
 - (b) 2 if there were more than one but less than seven occurrences of the violation.
 - (c) 3 if there were from seven to 28 occurrences of the violation.
 - (d) 4 if there were more than 28 occurrences of the violation.
 - (e) DEQ may, at its discretion, assess separate penalties for each occurrence of a violation. If DEQ does so, the O factor for each affected violation will be set at 0. If DEQ assesses one penalty for multiple occurrences, the penalty will be based on the highest classification and magnitude applicable to any of the occurrences.
- (5) "M" is the mental state of the respondent. For any violation where the findings support more than one mental state, the mental state with the highest value will apply. The values for "M" and the finding that supports each are as follows:

(a) 0 if there is insufficient information on which to base a finding under paragraphs (5)(b) through (5)(d).

(b) 2 if the respondent had constructive knowledge (reasonably should have known) of the requirement.

(c) 4 if the respondent's conduct was negligent.

(d) 8 if the respondent's conduct was reckless or the respondent acted or failed to act intentionally with actual knowledge of the requirement.

(e) 10 if respondent acted flagrantly.

(6) "C" is the respondent's efforts to correct or mitigate the violation. The values for "C" and the finding that supports each are as follows:

(a) -5 if the respondent made extraordinary efforts to correct the violation or to minimize the effects of the violation, and made extraordinary efforts to ensure the violation would not be repeated.

(b) -4 if the respondent made extraordinary efforts to ensure that the violation would not be repeated.

(c) -3 if the respondent made reasonable efforts to correct the violation, or took reasonable affirmative efforts to minimize the effects of the violation.

(d) -2 if the respondent eventually made some efforts to correct the violation, or to minimize the effects of the violation.

(e) -1 if the respondent made reasonable efforts to ensure that the violation would not be repeated.

(f) 0 if there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g) or if the violation or the effects of the violation could not be corrected or minimized.

(g) 2 if the respondent did not address the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f).

Stat. Auth.: ORS 468.020 & 468.130

Stats. Implemented: ORS 459.376, 459.995, 465.900, 465.992, 466.990 - 994, 468.090 - 140 & 468B.450

Hist.: DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0150

Determination of Economic Benefit

(1) The Economic Benefit (EB) is the approximate dollar value of the benefit gained and the costs avoided or delayed (without duplication) as a result of the respondent's noncompliance. The EB will be determined using the U.S. Environmental Protection Agency's BEN computer model. DEQ may make, for use in the model, a reasonable estimate of the benefits gained and the costs avoided or delayed by the respondent.

(2) Upon request of the respondent, DEQ will provide the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model. The model's standard values for income tax rates, inflation rate and discount rate are presumed to apply to all respondents unless a specific respondent can demonstrate that the standard value does not reflect the respondent's actual circumstance.

(3) DEQ need not calculate EB if DEQ makes a reasonable determination that the EB is de minimis or if there is insufficient information on which to make an estimate under this rule.

(4) DEQ may assess EB whether or not it assesses any other portion of the civil penalty using the formula in OAR 340-012-0045.

(5) DEQ's calculation of EB may not result in a civil penalty for a violation that exceeds the maximum civil penalty allowed by rule or statute. However, when a violation has occurred or been repeated for more than one day, DEQ may treat the violation as extending over at least as many days as necessary to recover the economic benefit of the violation.

Stat. Auth.: ORS 468.020 & 468.090 - 468.140

Stats. Implemented: ORS 459.376, 459.995, 465.900, 465.992, 466.210, 466.990, 466.994, 467.050, 467.990, 468.090 - 468.140 & 468.996

Hist.: DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0155

Additional or Alternate Civil Penalties

(1) DEQ may assess additional civil penalties for the following violations as specified below:

(a) DEQ may assess a civil penalty of up to \$250,000 to any person who intentionally or recklessly violates any provisions of ORS 164.785, 459.205-459.426, 459.705-459.790, Chapters 465, 466, 467, 468, or 468A or 468B or any rule or standard or order of the commission adopted or issued pursuant to 459.205-459.426, 459.705-459.790, Chapters 465, 466, 467, 468, 468A, or 468B, that results in or creates the imminent likelihood for an extreme hazard to public health or that causes extensive damage to the environment. When determining the civil penalty to be assessed under this subsection, the director will use the procedures set out below:

(A) The following base penalties apply:

(i) \$100,000 if the violation was caused intentionally;

(ii) \$150,000 if the violation was caused recklessly;

(iii) \$200,000 if the violation was caused flagrantly.

(B) The civil penalty is calculated using the following formula: $BP + [(.1 \times BP) (P + H + O + C)] + EB$.

(b) Any person who intentionally or negligently causes or permits the discharge of oil or hazardous materials into waters of the state or intentionally or negligently fails to clean up a spill or release of

oil or hazardous materials into waters of the state will incur a civil penalty not to exceed \$100,000 dollars for each violation. The amount of the penalty is determined as follows:

(A) The class and magnitude of the violation are determined according to OAR 340-012-0045, then the base penalty is determined according to OAR 340-012-0140.

(B) The multiplier for the base penalty is determined by adding the following values:

(i) 2 points if the violation was caused negligently; or 3 points if the violation was caused recklessly; or 4 points if the violation was caused intentionally with actual knowledge that a violation would occur; and

(ii) 1 point if the oil or hazardous material is or contains any constituent listed as a “hazardous substance” in 40 CFR 302; or 2 points if the oil or hazardous material is or contains any constituent listed as an “extremely hazardous substance” under 40 CFR 355; and

(iii) 2 points if the volume of the oil or hazardous material spilled, lost to the environment, or not cleaned up exceeds 1,000 gallons; and

(iv) 1 point if the violation impacted an area of particular environmental value where oil or hazardous materials could pose a greater threat than in other non-sensitive areas, for example, sensitive environments such as those listed in OAR 340-122-0115(50), drinking water sources, and cultural sites.

(C) The base penalty from paragraph (A) is multiplied by the sum of the points from paragraph (B) to determine the adjusted base penalty. The civil penalty formula in OAR 340-012-0045 is applied using the adjusted base penalty for the BP factor.

(c) Any person who willfully or negligently causes or permits the discharge of oil to state waters will incur, in addition to any other penalty derived from application of the applicable penalty matrix in 340-012-0140(2) and the civil penalty formula contained in 340-012-0045, a civil penalty commensurate with the amount of damage incurred. The amount of the penalty will be determined by the director with the advice of the director of the Oregon Department of Fish and Wildlife. In determining the amount of the penalty, the director may consider the gravity of the violation, the previous record of the violator in complying with the provisions of ORS 468B.450 to 468B.460, and such other considerations the director deems appropriate.

(d) Any person who has care, custody or control of a hazardous waste or a substance that would be a hazardous waste except for the fact that it is not discarded, useless or unwanted. will incur a civil penalty according to the schedule set forth in ORS 496.705 for the destruction, due to contamination of food or water supply by such waste or substance, of any of the wildlife referred to in ORS 496.705 that are property of the state.

(e) DEQ may assess a civil penalty of \$500 to any owner or operator of a confined animal feeding operation that has not applied for or does not have a permit required by ORS 468B.050.

(2) Civil penalties for certain violations are subject to the following maximums in lieu of the maximum daily penalty provided in OAR 340-012-160(4):

(a) DEQ may assess a civil penalty of up to \$1,000 for each day of violation to any person that fails to comply with the prohibitions on the sale or distribution of cleaning agents containing phosphorus in ORS 468B.130.

(b) DEQ may assess a civil penalty of up to \$500 for each violation of each day to any person that fails to comply with Toxics Use Reduction and Hazardous Waste Reduction Act requirements of ORS 465.003 to 465.034.

(c) DEQ may assess a civil penalty of up to \$500 for each violation of ORS 459.420 to 459.426. Each battery that is improperly disposed of is a separate violation, and each day an establishment fails to post the notice required by ORS 459.426 is a separate violation.

(d) DEQ may assess a civil penalty of up to \$500 for each violation of the requirement to provide the opportunity to recycle as required by ORS 459A.005.

(3) DEQ may assess the civil penalties below in lieu of civil penalties calculated pursuant to OAR 340-012-0045:

(a) DEQ will assess a Field Penalty as specified under OAR 340-150-0250 unless DEQ determines that an owner, operator or permittee is not eligible for the Field Penalty.

(b) DEQ may assess Expedited Enforcement Offers as specified under OAR 340-012-0170(2).

Stat. Auth.: ORS 465, 466, 468.020, 468.130, 468.996 & 783.992

Stats. Implemented: ORS 465.021, 466.785, 466.835, 466.992, 468.090 - 468.140, 468.996, 468B.220, 468B.450 & 783.992

Hist.: DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 9-2000, f. & cert. ef. 7-21-00; DEQ 1-2003, f. & cert. ef. 1-31-03; Renumbered from 340-012-0049, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0160

DEQ Discretion Regarding Penalty Assessment

(1) In addition to the authority described in section (4) below, DEQ has the discretion to increase a base penalty determined under OAR 340-012-0140 to that derived using the next highest penalty matrix. Factors that may be taken into consideration in increasing a base penalty include the respondent's compliance history, the likelihood of future violations, the degree of environmental or human health impact, the deterrence impact and other similar factors.

(2) In determining a civil penalty, the director may reduce any penalty by any amount the director deems appropriate if the respondent has voluntarily disclosed the violation to DEQ. In deciding whether a violation has been voluntarily disclosed, the director may take into account any considerations the director deems appropriate, including whether the violation was:

(a) Discovered through an environmental auditing program or a systematic compliance program;

(b) Voluntarily discovered;

- (c) Promptly disclosed;
- (d) Discovered and disclosed independent of the government or a third party;
- (e) Corrected and remedied;
- (f) Prevented from recurring;
- (g) Not repeated;
- (h) Not the cause of significant harm to human health or the environment; and
- (i) Disclosed and corrected in a cooperative manner.

(3) For the violation of spilling oil or hazardous materials into waters of the state, if the respondent exceeds relevant DEQ regulations pertaining to spill preparation and takes all other reasonably expected precautions to prevent spills and be prepared for spill response, DEQ may reduce the penalty for the spill by 10%. Depending on circumstances, such precautions may include, without limitation, employee safety training, company policies designed to reduce spill risks, availability of spill response equipment or staff, or use of alternative non-toxic oils.

(4) Regardless of any other penalty amount listed in this division, the director has the discretion to increase the penalty to \$25,000 per violation per day of violation based upon the facts and circumstances of the individual case.

(5) DEQ may issue separate civil penalties to each potentially liable person for any violation or violations, regardless of whether the violations arise out of the same facts or circumstances, given compliance objectives, including the level of deterrence needed.

Stat. Auth.: ORS 468.020 & 468.130

Stats. Implemented: ORS 183.745, 459.376, 459.995, 465.900, 465.992, 466.990, 466.994, 468.090-468.140, 468.996, 468B.450

Hist.: DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0162

Inability to Pay the Penalty

(1) After a penalty is assessed, DEQ may reduce a penalty based on the respondent's inability to pay the full penalty amount. In order to do so, DEQ must receive information regarding the respondent's financial condition on a form required by DEQ along with any additional documentation requested by DEQ.

(2) If the respondent is currently unable to pay the full penalty amount, the first option is to place the respondent on a payment schedule with interest. DEQ may reduce the penalty only after determining that the respondent is unable to meet a payment schedule of a length DEQ determines is reasonable.

(3) In considering the respondent's ability to pay a civil penalty, DEQ may use the U.S. Environmental Protection Agency's ABEL, INDIPAY or MUNIPAY computer models to evaluate a

respondent's financial condition or ability to pay the full civil penalty amount. Upon request of the respondent, DEQ will provide the respondent the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model;

(4) DEQ, at its discretion, may refuse to reduce an assessed civil penalty. In exercising this discretion, DEQ may take into consideration any factor related to the violations or the respondent, including but not limited to the respondent's mental state, whether the respondent has corrected the violation or taken efforts to ensure the violation will not be repeated, whether the respondent's financial condition poses a serious concern regarding the respondent's ability to remain in compliance, the respondent's future ability to pay, and the respondent's real property or other assets.

Stat. Auth.: ORS 468.020 & 468.130

Stats. Implemented: ORS 454.635, 454.645, 459.376, 459.995, 465.900, 465.992, 466.990 - 466.994, 468.090 - 468.140 & 468B.220 - 468B.450

Hist.: DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0165

Stipulated Penalties

Nothing in OAR chapter 340, division 12 affects the ability of the commission or DEQ to include stipulated penalties in a Mutual Agreement and Order, Consent Order, Consent Judgment or any other order or agreement issued under ORS Chapters 183, 454, 459, 465, 466, 467, 468, 468A, or 468B.

Stat. Auth.: ORS 454.625, 459.995, 468.020 & 468.996

Stats. Implemented: ORS 183.090 & 183.415

Hist.: DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 19-1998, f. & cert. ef. 10-12-98; Renumbered from 340-012-0048, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0170

Compromise or Settlement of Civil Penalty by DEQ

(1) DEQ may compromise or settle a civil penalty assessed in a formal enforcement action at any amount that DEQ deems appropriate. In determining whether a penalty should be compromised or settled, DEQ may take into account the following:

(a) New information obtained through further investigation or provided by the respondent that relates to the penalty determination factors contained in OAR 340-012-0045;

(b) The effect of compromise or settlement on deterrence;

(c) Whether the respondent has or is willing to employ extraordinary means to correct the violation or maintain compliance;

(d) Whether the respondent has had any previous penalties which have been compromised or settled;

(e) Whether the respondent has the ability to pay the civil penalty as determined by OAR 340-012-0162;

(f) Whether the compromise or settlement would be consistent with DEQ's goal of protecting human health and the environment; and

(g) The relative strength or weakness of DEQ's evidence.

(2) Expedited Enforcement Offers:

(a) DEQ may pursue informal disposition of any alleged violation by making an expedited enforcement offer.

(b) The decision as to whether to make an expedited enforcement offer with respect to any alleged violation is within DEQ's sole discretion, except as otherwise provided in this section (2).

(c) In determining whether to make an expedited enforcement offer, DEQ must consider the amount of the economic benefit gained by the alleged violator as a result of the noncompliance; whether the alleged violator has been the subject of a formal enforcement action or been issued a warning letter or pre-enforcement notice for the same or similar violations; whether the alleged violation is isolated or ongoing; and the mental state of the alleged violator.

(d) DEQ will not make an expedited enforcement offer to settle a Class I violation that has been repeated within the previous three years or to settle a violation that would be a major magnitude violation under OAR 340-012-0130(3) regardless of whether a selected magnitude under 340-012-0135 applies.

(e) The penalty amount for an alleged violation cited in an expedited enforcement offer will be 40% of the moderate base penalty listed in OAR 340-012-0140 under the applicable matrix and the applicable classification.

(f) Participation in the expedited enforcement program is voluntary. An alleged violator to whom DEQ makes an expedited enforcement offer is under no obligation to accept the offer.

(g) A person to whom an expedited enforcement offer is made has 30 calendar days from the date of the offer to accept the offer by paying the total amount stipulated in the expedited enforcement offer, or by making a payment toward the total amount if DEQ has approved a payment plan. The expedited enforcement offer payment and acceptance are deemed submitted when received by DEQ.

(h) By submitting payment to DEQ of the total amount stipulated in the expedited enforcement offer or a payment toward the total amount if DEQ has approved a payment plan, the alleged violator accepts the expedited enforcement offer, consents to the issuance of a final order of the commission which may include a compliance schedule, and agrees to waive any right to appeal or seek administrative or judicial review of the expedited enforcement offer, the final order, or any violation cited therein.

(i) Expedited enforcement offers incorporated into final orders of the commission will be treated as prior significant actions in accordance with OAR 340-012-0145.

(j) DEQ may initiate a formal enforcement action for any violation not settled by acceptance of the expedited enforcement offer.

Stat. Auth.: ORS 459, 466, 467, 468.020 & 468.130, 183.415, 183.745

Stats. Implemented: ORS 468.130-140, 183.415, 183.470, 183.745, 459.376, 459.995, 465.900, 466.990, 466.994, 468.035, 468.090 - 140 & 468B.220

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 22-1984, f. & ef. 11-8-84; DEQ 22-1988, f. & cert. ef. 9-14-88, Renumbered from 340-012-0075; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; Renumbered from 340-012-0047, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 1-2014, f. & cert. ef. 1-6-14

DIVISION 212

STATIONARY SOURCE TESTING AND MONITORING

Sampling, Testing and Measurement

340-212-0120 Program

(1) As part of its coordinated program of air quality control and preventing and abating air pollution, DEQ may:

(a) Require the owner or operator of a stationary source to determine the type, quantity, quality, and duration of the emissions from any air contamination source;

(b) Require full reporting in writing of all test procedures and signed by the person or persons responsible for conducting the tests;

(c) Require continuous monitoring of specified air contaminant emissions or parameters and periodic regular reporting of the results of such monitoring.

(2) DEQ may require an owner or operator of a source to provide emission testing facilities as follows:

(a) Sampling ports, safe sampling platforms, and access to sampling platforms adequate for test methods applicable to such source; and

(b) Utilities for sampling and testing equipment.

(3) Testing must be conducted in accordance with the DEQ **Source Sampling Manual**, the DEQ **Continuous Monitoring Manual**, or an applicable EPA Reference Method unless DEQ, if allowed under applicable federal requirements:

(a) Specifies or approves minor changes in methodology in specific cases;

(b) Approves the use of an equivalent or alternative method as defined in division 200;

(c) Waives the testing requirement because the owner or operator has satisfied DEQ that the affected facility is in compliance with applicable requirements; or

(d) Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors.

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

Stat. Auth.: ORS 468.020, 468A.050, 468A.055, 468A.070 & 468A.310

Stats. Implemented: ORS 468A.035, 468A.050, 468A.055, 468A.070 & 468A.310

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020 0035; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1100; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2015, f. & cert. ef. 4-16-15

DIVISION 214

STATIONARY SOURCE REPORTING REQUIREMENTS

Reporting

340-214-0110

Request for Information

All stationary sources must provide in a reasonably timely manner any and all information that DEQ reasonably requires for the purpose of regulating stationary sources. Such information may be required on a one-time, periodic, or continuous basis and may include, but is not limited to, information necessary to:

- (1) Issue a permit and ascertain compliance or noncompliance with the permit terms and conditions;
- (2) Ascertain applicability of any requirement;
- (3) Ascertain compliance or noncompliance with any applicable requirement; and
- (4) Incorporate monitoring, recordkeeping, reporting, and compliance certification requirements into a permit.

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

Stat. Auth.: ORS 468.020 & 468A

Stats. Implemented: ORS 468A.025 & 468A.050

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. &

cert. ef. 10-14-99, Renumbered from 340-028-0300; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2015, f. & cert. ef. 4-16-15

340-214-0114

Records; Maintaining and Reporting

(1) When notified by DEQ, any person owning or operating a source within the state must keep and maintain written records of the nature, type, and amounts of emissions from such source and other information DEQ may require in order to determine whether the source is in compliance with applicable emission rules, limitations, or control measures.

(2) The records must be prepared in the form of a report and submitted to DEQ on an annual, semi-annual, or more frequent basis, as requested in writing by DEQ. Submittals must be filed at the end of the first full period after DEQ's notification to such persons owning or operating a stationary air contaminant source of these recordkeeping requirements. Unless otherwise required by rule or permit, semi-annual periods are Jan. 1 to Jun. 30, and Jul. 1 to Dec. 31. A more frequent basis for reporting may be required due to noncompliance or if necessary to protect human health or the environment.

(3) The required reports must be completed on forms approved by DEQ and submitted within 30 days after the end of the reporting period, unless otherwise authorized by permit.

(4) All reports and certifications submitted to DEQ under divisions 200 to 264 must accurately reflect the monitoring, record keeping and other documentation held or performed by the owner or operator.

(5) The owner or operator of any source required to obtain a permit under OAR 340 division 216 or 218 must retain records of all required monitoring data and supporting information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. For the owner or operator of a source permitted under OAR 340 division 216, this requirement takes effect on July 1, 2015.

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

Stat. Auth.: ORS 468.020, 468A.050 & 468A.310

Stats. Implemented: ORS 468A.025, 468A.050 & 468A.310

Hist.: DEQ 44(Temp), f. & ef. 5-5-72; DEQ 48, f. 9-20-72, ef. 10-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0046; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1140; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-212-0160; DEQ 7-2015, f. & cert. ef. 4-16-15

340-214-0120

Enforcement

Notwithstanding any other provisions contained in any applicable requirement, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such applicable requirements.

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

Stat. Auth.: ORS 468.035

Stats. Implemented: ORS 468.100

Hist.: DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0310

Lane Regional Air Protection Agency

Rules and Regulations

Title 13 - General Duties and Powers of Board and Director

Section 13-005 Authority of the Agency

1. The Lane Regional Air Protection Agency is a regional air quality control agency established under the provisions of, and with authority and powers derived from, Oregon Revised Statutes 468.500 et seq. Except as specifically retained by the Environmental Quality Commission, the Agency has the exclusive duty and responsibility within its territory for air quality control.
2. In exercising this authority and power, the Agency:
 - a. May adopt rules and standards necessary to carry out its functions as authorized by law.
 - b. May enforce its rules and standards over both incorporated and unincorporated areas within the territory of the Agency, regardless of whether the governing body of a city within the territory of the Agency is participating in the regional authority.
 - c. Shall enforce the rules and standards of the Environmental Quality Commission as required.
 - d. Shall establish by rule standards for the entire territory or any area of the territory which set forth the maximum amount of air contaminants permissible. The rule may differentiate between different parts of the territory, different air contaminants and different air pollution sources or classes thereof. Such standards may be changed from time to time by the Agency following public hearings.
 - e. May require sources to register and report type and quantities of emissions.
 - f. Shall require sources to obtain permits to discharge air contaminants, shall provide for the issuance, renewal, termination and revocation of permits, and may charge reasonable fees for the administration of the permit program.
 - g. May issue orders to require prevention or correction of air pollution or emissions of air contaminants which violate air quality standards.
 - h. May institute actions for penalties for violation of any provisions of any rule or any order which it may issue.
 - i. May hold public hearings, conduct investigations, subpoena witnesses to appear, administer oaths and affirmations, take depositions and receive such proof as it may deem necessary or proper, make findings of fact and determinations to discharge its duties, powers and responsibilities to control and abate air pollution.
 - j. May institute or cause to be instituted in a court of competent jurisdiction, proceedings to compel compliance with the rules of the Agency, the laws of the State of Oregon and the standards set forth therein.
 - k. May institute or cause to be instituted a suit for injunction to prevent any further or continued violation of the standards of these rules or an order of the Agency, and to compel compliance, if measures to prevent or correct air pollution or emission of air contaminants are not taken in accordance with an order of the Agency.
 - l. Shall encourage voluntary cooperation by all persons controlling air pollution and shall cooperate with agencies of the United States, the State of Oregon, or other persons with respect to the control of air pollution.

- m. May conduct or cause to be conducted, studies and research with respect to air pollution sources, control, abatement or prevention.
- n. May conduct or supervise programs of air pollution control education.
- o. May apply to and receive funds from local, state, and federal governments and from public and private agencies.
- p. May expend such funds and enter into agreements with the state or the federal government for the purpose of organizing and operating a regional air pollution agency.
- q. May do any and all other acts and things not inconsistent with any provisions of these rules which it may deem necessary or proper for the effective enforcement of these rules and the applicable law.

Title 34 - Stationary Source Notification Requirements

RULES APPLICABLE TO ALL STATIONARY SOURCES

Section 34-015 Request for Information

All sources subject to Title 34 shall provide in a reasonably timely manner any and all information that LRAPA may reasonably require for the purpose of regulating stationary sources. Such information may be required on a one-time, periodic, or continuous basis and may include, but is not limited to, information necessary to:

- 1. Issue a permit and ascertain compliance or noncompliance with the permit terms and conditions;
- 2. Ascertain applicability of any requirement;
- 3. Ascertain compliance or noncompliance with any applicable requirement; and
- 4. Incorporate monitoring, recordkeeping, reporting, and compliance certification requirements into a permit.

Compliance with this section may require the installation and maintenance of continuous monitors and electronic data handling systems.

RULES APPLICABLE TO SOURCES REQUIRED TO HAVE TITLE V OPERATING PERMITS

Section 34-170 Applicability

Sections 34-180 through 34-200 apply to any stationary source defined under OAR 340-218-0020. Section 34-170 Amended 06/13/00.

Section 34-180 Authority to Implement

In accordance with OAR 340-218-0010, OAR 340-218-0010, and OAR 340-244-0020, LRAPA is authorized to implement all Oregon Administrative Rules, Divisions 218, 220, and 244, which apply to sources subject to the Title V Operating Permit program in Lane County. LRAPA shall implement Division 218, 220, and 244 rules as they pertain to Title V Operating Permit Program sources until such time as it adopts its own Title V Permit Program rules.

Section 34-180 Amended 06/13/00.

Section 34-190 Definitions

All definitions relevant to Title V Operating Permit Program rules are contained in OAR 340-200-0020 and are adopted here by reference in their entirety.

Section 34-190 Amended 06/13/00.

Section 34-200 Title V Operating Permitting Program Requirements and Procedures

All rules pertaining to permitting of sources subject to Title V Operating Permit program are contained in OAR 340-218-0020 through 220-0190 and OAR Division 244 and 248, and shall be implemented by LRAPA in accordance with Section 34-180.

Section 34-200 Amended 06/13/00.

Title 35 - Stationary Source Testing and Monitoring

Section 35-0120

Program

1. As part of its coordinated program of air quality control and preventing and abating air pollution, LRAPA may:
 - a. Require the owner or operator of a stationary source to determine the type, quantity, quality, and duration of the emissions from any air contamination source;
 - b. Require full reporting in writing of all test procedures and signed by the person or persons responsible for conducting the tests;
 - c. Require continuous monitoring of specified air contaminant emissions or parameters and periodic regular reporting of the results of such monitoring.
2. LRAPA may require an owner or operator of a source to provide emission testing facilities as follows:
 - a. Sampling ports, safe sampling platforms, and access to sampling platforms adequate for test methods applicable to such source; and
 - b. Utilities for sampling and testing equipment.
3. Testing must be conducted in accordance with the ODEQ's **Source Sampling Manual (January 1992)**, the ODEQ's **Continuous Monitoring Manual (January 1992)**, or an applicable EPA Reference Method unless LRAPA, if allowed under applicable federal requirements:
 - a. Specifies or approves minor changes in methodology in specific cases;
 - b. Approves the use of an equivalent method or alternative method that will provide adequate results;
 - c. Waives the testing requirement because the owner or has satisfied LRAPA that the affected facility is in compliance with applicable requirements; or
 - d. Approves shorter sampling times and smaller sample volumes when necessitated by process variables and other factors.

Section 35-0160 Records; Maintaining and Reporting

1. When notified by LRAPA, any person owning or operating a source within the state must keep and maintain written records of the nature, type, and amounts of emissions from such source and other information LRAPA may require in order to determine whether the source is in compliance with applicable emission rules, limitations, or control measures.
2. The records must be prepared in the form of a report and submitted to LRAPA on an annual, semi-annual, or more frequent basis, as requested in writing by LRAPA. Submittals must be

filed at the end of the first full period after LRAPA's notification to such persons owning or operating a stationary air contaminant source of these recordkeeping requirements. Unless otherwise required by rule or permit, semi-annual periods are January 1 to June 30, and July 1 to December 31. A more frequent basis for reporting may be required due to noncompliance or if necessary to protect human health or the environment.

3. The required reports must be completed on forms approved by LRAPA and submitted within 30 days after the end of the reporting period, unless otherwise authorized by permit.
4. All reports and certifications submitted to LRAPA under LRAPA's Rules and Regulations must accurately reflect the monitoring, record keeping and other documentation held or performed by the owner or operator.

Title 51 - Air Pollution Emergencies

Section 51-015 Emission Reduction Plans

Tables I, II and III of this regulation set forth specific emission reduction measures that shall be taken upon the declaration of an Air Pollution Episode. Any person responsible for a source of air contamination shall, upon declaration of an episode, take all actions specified in the applicable Table and shall particularly put into effect the Agency approved preplanned abatement strategy for such condition.

TABLE I AIR POLLUTION EPISODE, ALERT CONDITION EMISSION REDUCTION PLAN **Part A--Pollution Episode Conditions for Carbon Monoxide or Ozone**

For Alert conditions due to excessive levels of carbon monoxide or ozone, persons operating motor vehicles shall be requested to voluntarily curtail or eliminate all unnecessary operations within the designated Alert area, and public transportation systems shall be requested to provide additional services in accordance with a preplanned strategy.

Part B--Pollution Episode Conditions for Particulate Matter

For Alert conditions resulting from excessive levels of particulate matter, the following measures shall be taken in the designated area:

1. There shall be no open burning by any person of any material.
2. Persons operating fuel burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m.
3. Persons responsible for the operation of any source of air contaminants listed below shall take all required actions for the Alert level, in accordance with the preplanned strategy:

Sources

Control Actions - Alert Level

(A) Coal, Oil or wood-fired electric generating facilities

(A) Utilization of fuels having low ash and sulfur content.
 (B) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
 (C) Diverting electric power generation to facilities outside of Alert Area.

(B) Coal, oil or wood-fired process steam generating facilities.

(A) Utilization of fuel having low ash and sulfur content.
 (B) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

(C) Substantial reduction of steam load demands consistent with continuing plant operations.

(C) Manufacturing industries of the following classifications:

Primary Metals Industries

Petroleum Refining

Chemical Industries

Mineral Processing Ind.

Grain Industries

Paper and Allied Products

Wood Processing Industry

(A) Reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and all operations.

(B) Reduction by deferring trade waste disposal operations which emit solid particle gas vapors or malodorous substance.

(C) Reduction of heat load demands for processing.

(D) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

TABLE II AIR POLLUTION EPISODE, WARNING CONDITIONS EMISSION REDUCTION PLAN
Part A--Pollution Episode Conditions for Carbon Monoxide or Ozone

For Warning conditions, resulting from excessive levels of carbon monoxide or ozone, the following measures shall be taken:

1. Operating of motor vehicles carrying fewer than three (3) persons shall be prohibited within designated areas during specified hours. Exceptions from this provision are:
 - A. Public transportation and emergency vehicles
 - B. Commercial vehicles
 - C. Through traffic remaining on Interstate or primary highways.
2. At the discretion of the Agency, operations of all private vehicles within designated areas or entry of vehicles into designated areas, may be prohibited for specified periods of time.
3. Public transportation operators shall, in accordance with a pre-planned strategy, provide the maximum possible additional service to minimize the public's inconvenience as a result of (1) or (2) above.
4. For ozone episodes the following additional measures shall be taken:
 - A. No bulk transfer of gasoline without vapor recovery from 2:00 a.m. to 2:00 p.m.
 - B. No service station pumping of gasoline from 2:00 a.m. to 2:00 p.m.
 - C. No operation of paper coating plants from 2:00 a.m. to 2:00 p.m.
 - D. No architectural painting or auto finishing;
 - E. No venting of dry cleaning solvents from 2:00 a.m. to 2:00 p.m. (except perchlorethylene).
5. Where appropriate for carbon monoxide episodes during the heating season, and where legal Agency exists, governmental agencies shall prohibit all use of woodstoves and fireplaces for domestic space heating, except where such devices provide the sole source of heat.

Part B--Pollution Episode Conditions for Particulate Matter

For Warning conditions resulting from excessive levels of particulate matter, the following measures shall be taken:

1. There shall be no open burning by any person of any material.
2. The use of incinerators for the disposal of solid or liquid wastes shall be prohibited.
3. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m.
4. Where legal Agency exists, governmental agencies shall prohibit all use of woodstoves and fireplaces for domestic space heating, except where such devices provide the sole source of heat.
5. Persons responsible for the operation of any source of air contaminants listed below shall take all required actions for the Warning level, in accordance with a preplanned strategy:

Source of Air Contamination

Air Pollution Warning

(A) Coal, oil or wood-fired electric power generating facilities.

(A) Maximum utilization of fuels having lowest ash and sulfur content.

(B) Utilization of mid-day (12:00 noon to 4:00 p.m.)

atmospheric turbulence for boiler lancing and soot blowing.

(C) Diverting electric power generation to facilities outside of Warning Area.

(D) Prepare to use a plan of action if an Emergency Condition develops.

(E) Cease operation of facilities not related to safety or protection of equipment or delivery of priority power.

(B) Coal, oil or wood-fired process steam generating facilities

(A) Maximum utilization of fuels having the lowest ash and sulfur content.

(B) Utilization of mid-day (12:00 noon to 4:00 p.m.)

atmospheric turbulence for boiler lancing and soot blowing.

(C) Prepare to use a plan of action if an Emergency Condition develops.

(D) Cease operation of facilities not related to safety or protection of equipment or delivery of priority power.

(C) Manufacturing industries which require considerable lead time for shut-down including the following

Petroleum Refining

Chemical Industries

Primary Metals Industries

Glass Industries

Paper and Allied Products

(A) Reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardships by postponing production and allied operations.

(B) Reduction by deferring trade waste disposal operations which emit solid particles, gases, vapors or malodorous substances.

(C) Maximum reduction of heat load demands for processing.

(D) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence of boiler lancing or soot blowing.

(D) Manufacturing industries which
 State of Oregon Department of Environmental Quality

(A) Elimination of air contaminants from manufacturing

require relatively short time for shut-down	<p>operations by ceasing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.</p> <p>(B) Elimination of air contaminants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.</p> <p>(C) Reduction of heat load demands for processing.</p> <p>(D) Utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing or soot blowing.</p>
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TABLE III AIR POLLUTION EPISODE, EMERGENCY CONDITIONS EMISSION REDUCTION PLAN

1. There shall be no open burning by any person of any material.
2. The use of incinerators for the disposal of solid or liquid wastes shall be prohibited.
3. All places of employment, commerce, trade, public gatherings, government, industry, business, or manufacture shall immediately cease operation, except the following:
 - A. Police, fire, medical and other emergency services;
 - B. Utility and communication services;
 - C. Governmental functions necessary for civil control and safety;
 - D. Operations necessary to prevent injury to persons or serious damage to equipment or property;
 - E. Food stores, drug stores and operations necessary for their supply;
 - F. Operations necessary for evacuation of persons leaving the area;
 - G. Operations conducted in accordance with an approved preplanned emission reduction plan on file with the Agency.
4. All commercial and manufacturing establishments not included in these rules shall institute such actions as will result in maximum reduction of air contaminants from their operations which emit air contaminants, to the extent possible without causing injury or damage to equipment.
5. The use of motor vehicles is prohibited except for the exempted functions in 3, above.
6. Airports shall be closed to all except emergency air traffic.
7. Where legal Agency exists, governmental agencies shall prohibit all use of woodstoves and fireplaces.
8. Any person responsible for the operation of a source of atmospheric contamination listed below shall take all required control actions for this Emergency Level.

Source	Air Pollution Emergency
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(A) Coal, oil or wood-fired electric power generating facilities	<p>(A) Maximum utilization of fuels having lowest ash and sulfur content.</p> <p>(B) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.</p> <p>(C) Diverting electric power generation to facilities outside of Emergency area.</p>
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(D) Cease operation of facilities not related to safety or protection of equipment or delivery of priority power.

(B) Coal, oil or wood-fired process steam generating facilities (A) Reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
 (B) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
 (C) Taking the action called for in the emergency plan.
 (D) Cease operation of facilities not related to safety or protection of equipment or delivery of priority power.

(C) Manufacturing industries of following classifications:
 Primary Metals Industry (A) The elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
 Petroleum Refining (B) Elimination of air contaminants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.
 Operations (C) Maximum reduction of heat load demands for processing.
 Chemical Industries (D) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.
 Mineral Processing Industries
 Paper and Allied Products
 Grain Industry
 Wood Processing Industry

Exhibit C: 30-Day Notification

Invitation to Comment



Updating Oregon's Air Quality Rules to Address Federal Regulations

DEQ re-opens comment period until Dec. 23, 2016

This document contains several documents:

- Invitation to Comment
- Notice of Rulemaking Hearing
- Draft Rules in markup format
- Draft Rules in final clean version
- State plan to implement the federal Emission Guidelines for commercial and industrial solid waste incineration units
- Supporting documents

DEQ invites public input on proposed permanent rule amendments to Chapter 340 of the Oregon Administrative Rules and state plan to implement Federal Emission Guidelines.

DEQ proposal

DEQ proposes the following changes to OAR 340, divisions 230, 238 and 244, which will:

Update Oregon rules to reflect new and amended federal standards and emission guidelines for:

- a. **Toxics of concern.** DEQ proposes adopting the new residual risk and technology standards for aerospace manufacturing and rework, amino and phenolic resin manufacturing, electric arc furnace steelmaking facilities, flexible polyurethane foam production, generic maximum achievable control technology, offsite waste and recovery, pesticide active ingredient production, phosphate fertilizer production, phosphoric acid manufacturing, polyether polyols production, polymer and resin production, primary aluminum reduction, and secondary aluminum production. This would give DEQ the authority to include the new federal requirements in Title V air quality permits it oversees under authority from the U.S. Environmental Protection Agency.
- b. **Sources that may endanger public health and welfare.** DEQ proposes adopting the new federal standards for crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after Sep. 18, 2015; greenhouse gas emissions from electric generating units; kraft pulp mills constructed, reconstructed or modified after May 23, 2013; and wool fiberglass manufacturing. This would give DEQ the authority to include the new federal requirements into Title V permits.
- c. **Revised federal standards.** DEQ proposes adopting revised federal standards by reference.
- d. **Revised federal emission guidelines.** EPA amended emission guidelines for commercial and industrial solid waste incineration units. States are required to develop rules and state plans to implement federal emission guidelines.

Update state plan to implement the amended federal emission guidelines for commercial and industrial solid waste incineration units.

Invitation to Comment

More information

The proposed rules, Notice of Proposed Rulemaking, including the fiscal impact statement, and updated state plan to implement the amended federal emission guidelines for commercial and industrial solid waste incineration units are on the rulemaking's web page: [Update Oregon's Air Quality Rules to Address Federal Regulations](#)

Public Hearings

DEQ will hold the following public hearing on this rulemaking:

Anyone can attend the public hearing, either in person or through a webinar or teleconference. The details are listed below

5 p.m. Monday, Dec. 19, 2016
DEQ Headquarters Building Conference Room 610
700 NE Multnomah St., Suite 600
Portland, OR 97232

Teleconference/Webinar Information

Call-in number: 888-278-0296

Participant ID code: 8040259

Webinar login link: [Public Hearing Webinar Login](#)

You can find information about how to use the webinar or teleconference systems here: [Webinar Teleconference Instructions](#)

What will happen next?

DEQ will include a written response to comments in a staff report DEQ will submit to the Oregon Environmental Quality Commission. DEQ may modify the proposed rules and state plan based on the comments.

Present proposal to the EQC

Proposed rules only go into effect if the Environmental Quality Commission adopts them. State plans only go into effect if the Environmental Quality Commission adopts them and the Environment Protection Agency approves them. DEQ plans to present the proposed rules and state plan to the commission for a decision at the commission's meeting on Mar. 15-16, 2017.

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules and state plan. Anyone can submit comments and questions about this rulemaking.

Comment deadline

DEQ will only consider comments on the proposed rules DEQ receives by 4 p.m. Friday, Dec. 23, 2016.

Submit comment online

[Update Oregon's Air Quality Rules to Address Federal Regulations Comment Page](#)

Note for public university students:

ORS 192.501(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student you may omit your email address when you complete the online form to submit a comment.

Invitation to Comment

By mail

Oregon DEQ
Attn: Jerry Ebersole
700 NE Multnomah St., Suite 600
Portland, OR 97232

At hearing

5 p.m. Monday, Dec. 19, 2016

Sign up for rulemaking notices

Get email updates about future DEQ rulemaking by signing up through [GovDelivery](#).

or on the [rulemaking web site](#).

Accessibility information

You may review copies of all documents referenced in this announcement at:

Oregon Department of Environmental Quality headquarters
700 NE Multnomah St., Suite 600
Portland, OR 97232

To schedule a review of all websites and documents referenced in this announcement, call Jerry Ebersole, Portland, at 503-229-6974 (800-452-4011, ext. 5622 toll-free in Oregon).

Please notify DEQ of any special physical or language accommodations or if you need information in large print, or another format. To make these arrangements, contact DEQ, Portland, at 503-229-5696 or call toll-free in Oregon at 1-800-452-4011, ext. 5696; fax to 503-229-6762; or email to [DEQ Info](#). Hearing impaired persons may call 711.



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Updating Air Quality Rules to Address Federal Regulations

Proposed Rulemaking

[Jerry Ebersole](#), 503-229-6974

DEQ re-opened the public comment period for this rulemaking to add new and amended federal rules adopted between July 1, 2015 and July 1, 2016 and amendments made to the federal emission guidelines for commercial and industrial solid waste incineration units on June 23, 2016. The comment period closed at 4 p.m., Dec. 23, 2016.

[See December 2016 Oregon Bulletin](#)

- **Toxics of concern**

DEQ proposes adopting the new residual risk and technology standards for aerospace manufacturing and rework, amino and phenolic resin manufacturing, electric arc furnace steelmaking facilities, flexible polyurethane foam production, generic maximum achievable control technology, offsite waste and recovery, pesticide active ingredient production, phosphate fertilizer production, phosphoric acid manufacturing, polyether polyols production, polymer and resin production, primary aluminum reduction, and secondary aluminum production. This would give DEQ the authority to include the new federal requirements in Title V air quality permits it oversees under authority from the U.S. Environmental Protection Agency.

- **Sources that may endanger public health and welfare**

DEQ proposes adopting the new federal standards for crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after Sep. 18, 2015; greenhouse gas emissions from electric generating units; kraft pulp mills constructed, reconstructed or modified after May 23, 2013; and wool fiberglass manufacturing. This would give DEQ the authority to include the new federal requirements into Title V permits.

- **Revised federal standards**

DEQ proposes adopting revised federal standards by reference.

- **Revised federal emission guidelines**

EPA amended emission guidelines for commercial and industrial solid waste incineration units. States are required to develop rules and state plans to implement federal emission guidelines.

Update state plan to implement the amended federal emission guidelines for commercial and industrial solid waste incineration units.

[View the list of new and amended standards which includes the links to the federal rules.](#)
These rules contain EPA's evaluation of fiscal and economic impacts in their preambles.



[Sign up for email updates on the rulemaking via GovDelivery](#)

Public Involvement

[View comments](#)

The comment period closed at 4 p.m., Dec. 23, 2016.

Public Notice Packet - Includes invitation to comment, notice, proposed rules, and any supporting documents.

Environmental Quality Commission Action

Scheduled for the April 19-20, 2017 meeting.

The Oregon Department of Environmental Quality is proposing amendments to its administrative rules at OAR 340 and state plan to implement federal emission guidelines for commercial and industrial solid waste incineration units.

DEQ is re-opening the public comment period for this rulemaking to add new and amended federal rules adopted between July 1, 2015 and July 1, 2016 and amendments made to the federal emission guidelines for commercial and industrial solid waste incineration units on June 23, 2016. The comment period closes at 4 p.m., Dec. 23, 2016.

Summary

DEQ proposes rules to adopt new and amended federal air quality regulations. This includes adopting:

- New federal standards for crude oil and natural gas facilities; electric generating units; kraft pulp mills; and wool fiberglass manufacturing;
- Newly amended federal standards; and
- Amendments to the federal emission guidelines for commercial and industrial solid waste incineration units

Public Participation

DEQ will accept public comments on this proposed rulemaking and state plan to implement the federal emission guidelines for commercial and industrial solid waste incineration units until 4 pm on Friday, December 23, 2016.

DEQ will hold a public hearing on this proposed rulemaking on Monday, December 19, 2016 at 5 p.m. The hearing will be held at DEQ headquarters, Room 610 on the 6th Floor, 700 NE Multnomah St., Portland, OR, 97232.

Additional Information

To view copies of the notice documents, learn more about this rulemaking, and how to submit comments, you can view the rulemaking web page at: [Update Oregon's Air Quality Rules to Address Federal Regulations](#).

If you want to receive future email notices about this rulemaking, you must sign up at: [DEQ Govdelivery](#).

You can also obtain more information about this rulemaking by contacting:

Jerry Ebersole
700 NE Multnomah St., Portland OR, 97232
(503) 229-6974
[Jerry Ebersole](#)

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Title V Permit Program	249	1,888
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Oregon Bulletin

December 1, 2016

NOTICES OF PROPOSED RULEMAKING AND PROPOSED RULEMAKING HEARINGS

The following agencies provide Notice of Proposed Rulemaking to offer interested parties reasonable opportunity to submit data or views on proposed rulemaking activity. To expedite the rulemaking process, many agencies have set the time and place for a hearing in the notice. Copies of rulemaking materials may be obtained from the Rules Coordinator at the address and telephone number indicated.

Public comment may be submitted in writing directly to an agency or presented orally at the rulemaking hearing. Written comment must be submitted to an agency by 5:00 p.m. on the Last Day for Comment listed, unless a different time of day is specified. Oral comments may be submitted at the appropriate time during a rulemaking hearing as outlined in OAR 137-001-0030.

Agencies providing notice request public comment on whether other options should be considered for achieving a proposed administrative rule's substantive goals while reducing negative economic impact of the rule on business.

In Notices of Proposed Rulemaking where no hearing has been set, a hearing may be requested by 10 or more people or by an association with 10 or more members. Agencies must receive requests for a public rulemaking hearing in writing within 21 days following notice publication in the Oregon Bulletin or 28 days from the date notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received by an agency, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

***Auxiliary aids for persons with disabilities are available upon advance request.** Contact the agency Rules Coordinator listed in the notice information.

Rule Caption: Updating Oregon's Air Quality Rules to Address Federal Regulations

Stat. Auth.: ORS 468.020 and 468A.025

Stats. Implemented: ORS 468A.025 and 468A.040

Proposed Amendments: 340-230-0500, 340-238-0040, 340-238-0060, 340-244-0030, 340-244-0220

Last Date for Comment: 12-23-16, 4 p.m.

Summary: DEQ is re-opening the public comment period for this rulemaking to add new and amended federal rules adopted between July 1, 2015 and July 1, 2016 and amendments made to the federal emission guidelines for commercial and industrial solid waste incineration units on June 23, 2016. The comment period closes at 4 p.m., Dec. 23, 2016. Following is the amended DEQ proposal.

Short summary

DEQ proposes rules to adopt new and amended federal air quality regulations. This includes adopting:

- New federal standards for crude oil and natural gas facilities; electric generating units; kraft pulp mills; and wool fiberglass manufacturing; and
- Newly amended federal standards; and
- Amendments to the federal emission guidelines for commercial and industrial solid waste incineration units

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.

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

Regulated parties

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

Outline

DEQ proposes rules to:

1. Adopt new rules to incorporate by reference the new federal New Source Performance Standards for:
 - a. Kraft pulp mills for which construction, reconstruction, or modification commences after May 23, 2013,
 - b. Crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after Sep. 18, 2015, and
 - c. Greenhouse gas emissions for electric generating units.
2. Adopt new rules to incorporate by reference the new federal area source NESHAPs for wool fiberglass manufacturing.
3. Update existing rules to incorporate the following federal changes by reference; these updates are accomplished in the rules by updating the version of the Code of Federal Regulations in the definitions of that term in OAR Chapter 340 divisions 238 and 244:
 - a. Amended federal area source NESHAPs for:
 - Electric arc furnaces steelmaking facilities (residual risk and technology review)

- Polyvinyl chloride and copolymers production
- b. Amended federal major source NESHAPs for:
 - Aerospace manufacturing and rework (residual risk and technology review)
 - Amino and phenolic resin manufacturing (residual risk and technology review)
 - Brick and structural clay products manufacturing
 - Clay ceramics manufacturing
 - Electric utility steam generating units
 - Ferroalloys production: ferromanganese and silicomanganese
 - Flexible polyurethane foam production (residual risk and technology review)
 - Generic maximum achievable control technology (residual risk and technology review)
 - Industrial, commercial, and industrial boilers and process heaters
 - Marine tank loading operations
 - Mineral wool production
 - Offsite waste and recovery (residual risk and technology review)
 - Pesticide active ingredient production (residual risk and technology review)
 - Petroleum refineries
 - Petroleum refineries - catalytic cracking, catalytic reforming and sulfur recovery
 - Phosphate fertilizer production (residual risk and technology review)
 - Phosphoric acid manufacturing (residual risk and technology review)
 - Polyether polyols production (residual risk and technology review)
 - Polymer and resin production (residual risk and technology review)
 - Portland cement manufacturing
 - Primary aluminum reduction (residual risk and technology review)
 - Secondary lead smelting
- c. Amended federal major and area source NESHAPs for:
 - Chromium electroplating and anodizing
 - Secondary aluminum production (residual risk and technology review)
- d. Amended federal New Source Performance Standards for:
 - Commercial and industrial solid waste incineration units
 - Crude oil and natural gas production, transmission and distribution
 - Electric utility steam generating units
 - Nitric acid plants
 - Onshore natural gas processing

- Petroleum refineries
- Phosphate fertilizer plants
- Polymer manufacturing
- Portland cement plants
- Rubber tire manufacturing
- Stationary gas turbines
- Synthetic organic chemical manufacturing

4. Update an existing rule to implement federal changes to the emission guidelines for commercial and industrial solid waste incineration units

Rules Coordinator: Meyer Goldstein

Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204

Telephone: (503) 229-6478

Exhibit D: Certification of Hearings

Stakeholder and public involvement

Advisory committee

DEQ did not appoint an advisory committee for this rulemaking because the rulemaking would adopt federal regulations by reference.

EQC prior involvement

DEQ shares general rulemaking information with EQC through the monthly Director's report and information items on the EQC agenda. DEQ did not present additional information specific to this proposed rule revision beyond the monthly report.

Public notice

DEQ published the Notice of Proposed Rulemaking with Hearing for this rulemaking as follows:

On December 15, 2015 DEQ submitted notice to:

- Secretary of State for publication in the January 1, 2016 [*Oregon Bulletin*](#)
- The DEQ Rulemaking Web page [Update Oregon's Air Quality Rules to Address Federal Regulations](#)
- E-mail notice to:
 - Approximately 5,750 interested parties through GovDelivery
 - Approximately 11 parties affected by the new and amended federal air quality regulations.
 - Key legislators required under ORS 183.335, including:
 - o Senator Chris Edwards, Chair, House Energy and Environment Committee
 - o Representative Jessica Vega-Pederson, Co-Chair, Senate Environment and Natural Resources Committee
- Sent notice to EPA

On November 15, 2016 DEQ submitted notice to:

- Secretary of State for publication in the December 1, 2016 [*Oregon Bulletin*](#)
- The DEQ Rulemaking Web page [Update Oregon's Air Quality Rules to Address Federal Regulations](#)
- E-mail notice to:
 - Approximately 5,750 interested parties through GovDelivery

- Approximately 11 parties affected by the new and amended federal air quality regulations.
- Key legislators required under ORS 183.335, including:
 - o Senator Chris Edwards, Chair, House Energy and Environment Committee
 - o Representative Jessica Vega-Pederson, Co-Chair, Senate Environment and Natural Resources Committee
- Sent notice to EPA

Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business. This document includes a summary of comments and DEQ responses.

Public hearings and comment

DEQ held two public hearings. DEQ received nine public comments from two public commenters. Later sections of this document include a summary of comments received, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Presiding Officers' Record

Hearing 1

Meeting location: DEQ Headquarters, 811 SW Sixth Ave., Portland, OR 97204. People unable to attend the Portland hearing in person were able to participate by teleconference
Meeting date and time: January 21, 2016 at 5pm

Presiding Officer: Susan Carlson

No one attended the hearing in-person or by teleconference.

The presiding officer convened the hearing and was prepared to summarize procedures for the hearing and explained that DEQ was recording the hearing. The presiding officer was prepared to ask 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 was prepared to advise 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 was prepared to summarize the content of the rulemaking notice.

DEQ was prepared to add all names and affiliations of hearing participants who presented testimony to the commenter section of this staff report. DEQ was prepared to add all written and oral comments presented at each hearing to the summary of comments and agency responses section of this staff report.

Hearing 2

Meeting location: DEQ Headquarters, 700 NE Multnomah Street, Suite 600, Portland, OR 97232. People unable to attend the Portland hearing in person were able to participate by teleconferencing and a webinar

Meeting date and time: December 19, 2016 at 5pm

Presiding Officer: Donald Hendrix

No one attended the hearing in-person or by teleconference or webinar.

The presiding officer convened the hearing and was prepared to summarize procedures for the hearing and explained that DEQ was recording the hearing. The presiding officer was prepared to ask 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 was prepared to advise 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 was prepared to summarize the content of the rulemaking notice.

DEQ was prepared to add all names and affiliations of hearing participants who presented testimony to the commenter section of this staff report. DEQ was prepared to add all written and oral comments presented at each hearing to the summary of comments and agency responses section of this staff report.

Exhibit E: Public Comments and Responses

Summary of comments and DEQ responses

The following is a summary of the public comment received by the close of the public comment period. DEQ's response follows the summary. The original comment is on file with DEQ. DEQ changed the proposed rules in response to comments.

Comment NWPPA has reviewed the proposal and supports state adoption of the federal rule changes to keep Oregon's air quality program current with federal standards.**Response**
Thank you for your comment.

Comment OAR 340-230-0500(4)(b): The comparable provisions in the CISWI emission guidelines also includes air curtain incinerators. See 40 CFR 60.2550(b).

Response Thank you for your comment. In response, "or air curtain incinerator" was added to OAR 340-230-0500(4)(b).

Comment OAR 340-230-0500(4)(b): The comparable provisions in the CISWI emission guidelines also includes air curtain incinerators. See 40 CFR 60.2550(b).

Response Thank you for your comment. In response, "or air curtain incinerator" was added to OAR 340-230-0500(4)(b).

Comment OAR 340-230-0500(5)(b): We do not understand the reason for the proposed deletion in this provision.

Response Thank you for your comment. In response, "Part 60 Subpart Cb (Emission Guidelines and Compliance Times for Large Municipal Combustors)" was added back to OAR 340-230-0500(5)(b).

Comment OAR 340-230-0500(6)(a)(A): "Whichever is earlier" appears to be no longer needed with the other proposed deletions in this subparagraph.

Response Thank you for your comment. In response, "whichever is earlier" was removed from OAR 340-230-0500(6)(a)(A).

Comment OAR 340-230-0500(6)(i)(C): We understand that Oregon's intent is for these rules to go into effect as a matter of state law as provided in these rules regardless of when and whether EPA approves Oregon's CISWI plan. The reference to "the effective date of State Plan approval" in this provision does not appear to be consistent with that intent.

Response Thank you for your comment. In response, "on the effective date of State Plan approval" was changed to "February 7, 2018" in OAR 340-230-0500(6)(i)(C).

Comment OAR 340-230-0500(7)(b): Again, the reference to “the effective date of State plan approval” here seems inconsistent with our understanding of Oregon’s intent that the effectiveness of the rules as a matter of state law not be contingent on EPA approval.

Response Thank you for your comment. In response, the increments of progress and achieving final compliance requirements in OAR 340-230-0500(7)(b), (7)(b)(A) and (7)(b)(B) were revised to be consistent with the increments of progress and achieving final compliance requirements in OAR 340-230-0500(6)(a), (6)(a)(A) and (6)(a)(B). Also in response, replaced “effective date of state plan approval” to “April 20, 2017” in OAR 340-0500(3)(a).

Comment OAR 340-230-0500(7)(f)(A) and (h)(A): Should the references to paragraph 8 be to paragraph 7?

Response Thank you for your comment. In response, “8” was changed to “7” in OAR 340-230-0500(7)(f)(A) and (7)(h)(A).

Comment OAR 340-230-0500(7)(i): The reference to the “Administrator” in 40 CFR 60.2870(b) should be to EPA as well as DEQ to ensure EPA also has access to these records.

Response Thank you for your comment. In response, “DEQ” was changed to “DEQ or the EPA Administrator” in OAR 340-230-0500(7)(i).

Commenters

Comments received by close of public comment period

The table below lists three people or organizations that submitted public comments on the proposed rules by the deadline. Original comments are on file with DEQ.

1. **Commenter** Kathryn VanNatta
Affiliation Northwest Pulp & Paper

This commenter submitted comment 1 in the *Summary of comments and DEQ responses* section above.

2. **Commenter** Donald Dossett
Affiliation U.S. Environmental Protection Agency, Region 10

This commenter submitted comments 2 through 9 in the *Summary of comments and DEQ responses* section above.



New and Amended Standards Proposed for EQC Adoption

New and Amended NESHAPs/NSPSs Proposed for EQC Adoption

Subpart	Source Category	EPA Promulgated		Last EPA Revision Adopted by EQC (before 7/1/2013)		Subsequent EPA Revisions Proposed for EQC Adoption	
	New EPA Standards in Bold	Date	FR Citation	Date	FR Citation	Date	FR Citation
Part 60 – NSPS							
A	General Provisions	12/23/1971	36 FR 24877	4/30/2013	78 FR 25187	4/4/2014	79 FR 18965
						2/19/2015	80 FR 8803
						2/24/2015	80 FR 9617
						3/16/2015	80 FR 13701
						10/23/2015	80 FR 64648
						6/3/2016	81 FR 35895
						6/30/2016	81 FR 42542
D	Fossil-Fuel-Fired Steam Generators	6/14/1974	39 FR 20791	2/16/2012	77 FR 9447		
Da	Electric Utility Steam Generating Units	6/11/1979	44 FR 33613	4/24/2013	78 FR 24082	11/19/2014	79 FR 68788
						4/6/2016	81 FR 20180
Db	Industrial-Commercial-Institutional Steam Generating Units	12/16/1987	52 FR 47842	2/16/2012	77 FR 9459		
Dc	Small Industrial-Commercial-Institutional Steam Generating Units	9/12/1990	55 FR 37683	2/16/2012	77 FR 9461		
E	Incinerators	12/23/1971	36 FR 24877	5/10/2006	71 FR 27335		
Ea	Municipal Waste Combustors Constructed After 12/20/89 and on or Before 9/20/94	2/11/1991	56 FR 5507	10/17/2000	65 FR 61753		
Eb	Municipal Waste Combustors Constructed After 9/20/94	12/19/1995	60 FR 65419	5/10/2006	71 FR 27335		
Ec	Hospital/Medical/Infectious Waste Incinerators Constructed After 6/20/96 or Modified After 3/16/98	9/15/1997	62 FR 48382	5/13/2013	78 FR 25187		
F	Portland Cement Plants	12/23/1971	36 FR 24877	2/12/2013	78 FR 10032	7/27/2015	81 FR 44776
G	Nitric Acid Plants	6/14/1974	39 FR 20794	8/14/2012	77 FR 48445		
Ga	Nitric Acid Plants Constructed, Reconstructed, or Modified After October 14, 2011	8/14/2012	77 FR 48445			5/6/2014	79 FR 25681
H	Sulfuric Acid Plants	12/23/1971	36 FR 24877	10/17/2000	65 FR 61753		
I	Hot Mix Asphalt Facilities	3/8/1974	39 FR 9314	2/14/1989	54 FR 6667		
J	Petroleum Refineries	3/8/1974	39 FR 9315	9/12/2012	77 FR 56463	12/1/2015	80 FR 75229
Ja	Petroleum Refineries Constructed, Reconstructed, Modified After	6/24/2008	73 FR 35867	9/12/2012	77 FR 56463	12/19/2013	78 FR 76756

New and Amended NESHAPs/NSPSs Proposed for EQC Adoption

Subpart	Source Category	EPA Promulgated		Last EPA Revision Adopted by EQC (before 7/1/2013)		Subsequent EPA Revisions Proposed for EQC Adoption	
		Date	FR Citation	Date	FR Citation	Date	FR Citation
	New EPA Standards in Bold						
	5/14/07					12/1/2015	80 FR 75230
K	Storage Vessels for Petroleum Liquids Constructed, Reconstructed, Modified After 6/11/73 and Prior to 5/19/78	3/8/1974	39 FR 9317	10/17/2000	65 FR 61755		
Ka	Storage Vessels for Petroleum Liquids Constructed, Reconstructed, Modified After 5/18/78 and Prior to 7/23/84	4/4/1980	45 FR 23379	12/14/2000	65 FR 78275		
Kb	Volatile Organic Liquid Storage Vessels Constructed After 7/23/84	4/8/1987	52 FR 11429	10/15/2003	68 FR 59332		
L	Secondary Lead Smelters	3/8/1974	39 FR 9317	10/17/2000	65 FR 61756		
M	Secondary Brass and Bronze Production Plants	3/8/1974	39 FR 9318	10/17/2000	65 FR 61756		
N	Primary Emissions from Basic Oxygen Process Furnaces Constructed After 6/11/73	3/8/1974	39 FR 9318	10/17/2000	65 FR 61756		
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Furnaces Constructed After 1/20/83	1/2/86	51 FR 161	10/17/2000	65 FR 61756		
O	Sewage Treatment Plants	3/8/1974	39 FR 9319	10/17/2000	65 FR 61756		
P	Primary Copper Smelters	1/15/1976	41 FR 2338	10/17/2000	65 FR 61756		
Q	Primary Zinc Smelters	1/15/1976	41 FR 2340	2/14/1989	54 FR 6668		
R	Primary Lead Smelters	1/15/1976	41 FR 2340	2/14/1989	54 FR 6668		
S	Primary Aluminum Reduction Plants	7/25/1977	42 FR 37937	10/17/2000	65 FR 61757		
T	Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants	8/6/1975	40 FR 33154	10/17/2000	65 FR 61757	8/19/2015	80 FR 50432
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	8/6/1975	40 FR 33155	10/17/2000	65 FR 61757	8/19/2015	80 FR 50433
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	8/6/1975	40 FR 33155	10/17/2000	65 FR 61757	8/19/2015	80 FR 50434
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	8/6/1975	40 FR 33156	10/17/2000	65 FR 61757	8/19/2015	80 FR 50435
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	8/6/1975	40 FR 33156		65 FR 61757	8/19/2015	80 FR 50435
Y	Coal Preparation Plants	1/15/1976	41 FR 2234	10/8/2009	74 FR 51977		
Z	Ferroalloy Production Facilities	5/4/1976	41 FR 18501	10/17/2000	65 FR 61758		
AA	Steel Plants: Electric Arc Furnaces Constructed After 10/21/74 and on or Before 8/17/83	9/23/1975	40 FR 43852	2/22/2005	70 FR 8530		
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After 8/7/83	10/31/1984	49 FR 43845	2/22/2005	70 FR 8532		
BB	Kraft Pulp Mills	2/23/1978	43 FR 7572	9/21/2006	71 FR 55127		
BBa	Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commences After May 23, 2013	4/4/2014	79 FR 18966				
CC	Glass Manufacturing Plants	10/7/1980	45 FR 66751	10/17/2000	65 FR 61759		
DD	Grain Elevators	8/3/1978	43 FR 34347	10/17/2000	65 FR 61759	Item G.000	174

New and Amended NESHAPs/NSPSs Proposed for EQC Adoption

Subpart	Source Category	EPA Promulgated		Last EPA Revision Adopted by EQC (before 7/1/2013)		Subsequent EPA Revisions Proposed for EQC Adoption	
		Date	FR Citation	Date	FR Citation	Date	FR Citation
	New EPA Standards in Bold						
EE	Surface Coating of Metal Furniture	10/29/1982	47 FR 49287	10/17/2000	65 FR 61759		
GG	Stationary Gas Turbines	9/10/1979	44 FR 52798	2/24/2006	71 FR 9457	6/30/2016	81 FR 42542
HH	Lime Manufacturing Plants	4/26/1984	49 FR 18080	10/17/2000	65 FR 61760		
KK	Lead-Acid Battery Manufacturing Plants	4/16/1982	47 FR 16573	10/17/2000	65 FR 61760		
LL	Metallic Mineral Processing Plants	2/21/1984	49 FR 6464	10/17/2000	65 FR 61760		
MM	Automobile and Light-Duty Truck Surface Coating Operations	12/24/1980	45 FR 85415	10/17/2000	65 FR 61760		
NN	Phosphate Rock Plants	4/16/1982	47 FR 16589	10/17/2000	65 FR 61760		
PP	Ammonium Sulfate Manufacture	11/12/1980	45 FR 74850	10/17/2000	65 FR 61760		
QQ	Graphic Arts Industry: Publication Rotogravure Printing	11/8/1982	47 FR 50649	10/17/2000	65 FR 61761		
TT	Metal Coil Surface Coating	11/1/1982	47 FR 49612	10/17/2000	65 FR 61761		
UU	Asphalt Processing and Asphalt Roofing Manufacture	8/6/1982	47 FR 34143	10/17/2000	65 FR 61762		
VV	Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry	10/18/1983	48 FR 48335	6/2/2008	73 FR 31375		
VVa	Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry	11/16/2007	72 FR 64883	6/2/2008	73 FR 31375		
WW	Beverage Can Surface Coating Industry	11/1/1982	48 FR 38737	10/17/2000	65 FR 61763		
XX	Bulk Gasoline Terminals	8/18/1983	48 FR 37590	12/19/2003	68 FR 70965		
BBB	Rubber Tire Manufacturing Industry	9/15/1987	52 FR 34874	10/17/2000	65 FR 61764	6/30/2016	81 FR 42542
DDD	VOC Emissions from the Polymer Manufacture Industry	12/11/1990	55 FR 51035	12/14/2000	65 FR 78278	6/30/2016	81 FR 42542
FFF	Flexible Vinyl and Urethane Coating and Printing	6/29/1984	49 FR 26892	10/17/2000	65 FR 61768		
GGG	Equipment Leaks of VOC in Petroleum Refineries	5/30/1984	49 FR 22606	6/2/2008	73 FR 31376		
GGGa	Equipment Leaks of VOC in Petroleum Refineries	11/16/2007	72 FR 64896	6/2/2008	73 FR 31376		
HHH	Synthetic Fiber Production Facilities	4/5/1984	49 FR 13651	10/17/2000	65 FR 61768		
III	VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry Air Oxidation Unit Processes	6/29/1990	55 FR 26922	12/14/2000	65 FR 78278	6/30/2016	81 FR 42542
JJJ	Petroleum Dry Cleaners	9/21/1984	49 FR 37331	10/17/2000	65 FR 61773		
KKK	Equipment Leaks of VOC from Onshore Natural Gas Processing Plants	6/24/1985	50 FR 26124	8/16/2012	77 FR 49542		
LLL	Onshore Natural Gas Processing; SO ₂ Emissions	10/1/1985	50 FR 40160	8/16/2012	77 FR 49542	6/30/2016	81 FR 42542
NNN	VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry Distillation Operations	6/29/1990	55 FR 26942	12/14/2000	65 FR 78279	6/30/2016	81 FR 42542
OOO	Nonmetallic Mineral Processing Plants	8/1/1985	51 FR 31337	4/28/2009	74 FR 19309		
PPP	Wool Fiberglass Insulation Manufacturing Plants	2/25/1985	50 FR 7699	10/17/2000	65 FR 61778		

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QQQ	VOC Emissions from Petroleum Refinery Wastewater Systems	11/23/1988	53 FR 47623	10/17/2000	65 FR 61778		
RRR	VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry Distillation Operations	8/31/1993	58 FR 45962	12/14/2000	65 FR 78279		
SSS	Magnetic Tape Coating Facilities	10/3/1988	53 FR 38914	2/12/1999	64 FR 7467		
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines	1/29/1988	53 FR 2676	10/17/2000	65 FR 61778		
UUU	Calciners and Dryers in Mineral Industries	9/28/1992	57 FR 44503	10/17/2000	65 FR 61778		
VVV	Polymetric Coating of Supporting Substrates Facilities	9/11/1989	54 FR 37551				
WWW	Municipal Solid Waste Landfills built after May, 1991	3/12/1996	61 FR 9919	9/21/2006	71 FR 55127		
AAAA	Small Waste Combustion Units	12/6/2000	65 FR 76355				
CCCC	Commercial and Industrial Solid Waste Incineration Units	12/1/2000	65 FR 75350	2/7/2013	78 FR 9178	6/23/2016	81 FR 40970
EEEE	Other Solid Waste Incineration Units	12/16/2005	70 FR 74892	11/24/2006	71 FR 67806		
IIII	Stationary Compression Ignition Internal Combustion Engines	7/11/2006	71 FR 39172	1/30/2013	78 FR 6695		
JJJJ	Stationary Spark Ignition Internal Combustion Engines	1/18/2008	73 FR 3591	1/30/2013	78 FR 6696		
KKKK	Stationary Combustion Turbines	7/6/2006	71 FR 38497	3/20/2009	74 FR 11861	6/30/2016	81 FR 42542
LLLL	Sewage Sludge Incineration Units	3/21/2011	76 FR 15404	5/18/2011	76 FR 28661		
OOOO	Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced after Aug. 23, 2011 and on or before Sep. 18, 2015	9/12/2012	77 FR 49542			9/23/2013	78 FR 58435
						12/31/2014	79 FR 79036
						8/12/2015	80 FR 48268
						6/3/2016	81 FR 35896
OOOOa	Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015	6/3/2016	81 FR 35898				
TTTT	Greenhouse Gas Emissions for Electric Generating Units	10/23/2015	80 FR 64648				
PART 61 - NESHAP							
A	General Provisions	4/6/1973	38 FR 8826	4/30/2013	78 FR 25201	4/21/2015	80 FR 22115
B	Radon Emissions from Underground Storage Tanks	12/15/1989	54 FR 51694				
C	Beryllium	4/6/1973	38 FR 8826	11/7/1985	50 FR 46294		
D	Beryllium Rocket Motor Firing	4/6/1973	38 FR 8826	11/7/1985	50 FR 46294		
E	Mercury	4/6/1973	38 FR 8826	9/23/1988	53 FR 36972		
F	Vinyl Chloride	10/21/1976	41 FR 46564	12/23/1992	57 FR 60999		
I	Radionuclide Emissions from Federal Facilities Other than Nuclear Regulatory Commission Licensee and Not Covered by Subpart H	12/15/1989	54 FR 51697	12/30/1996	61 FR 68981		

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J	Equipment Leaks (Fugitive Emission Sources) of Benzene	6/6/1984	49 FR 23513	12/14/2000	65 FR 78280		
L	Benzene Emissions from Coke By-Product Recovery Plants	9/14/1989	54 FR 38073	2/12/1999	64 FR 7467		
N	Inorganic Arsenic Emissions from Glass Manufacturing Plants	8/4/1986	51 FR 28025	2/12/1999	64 FR 7467		
O	Inorganic Arsenic Emissions from Primary Copper Smelters	8/4/1986	51 FR 28029	5/31/1990	55 FR 22027		
P	Inorganic Arsenic Emissions from Arsenic Trioxide and Metal Arsenic Facilities	8/4/1986	51 FR 28033	10/3/1986	51 FR 35355		
V	Equipment Leaks (Fugitive Emission Sources)	6/6/1984	49 FR 23513	12/14/2000	65 FR 78280		
Y	Benzene Emissions from Benzene Storage Vessels	9/14/1989	54 FR 38077	12/14/2000	65 FR 78283		
FF	Benzene Waste Operations	3/7/1990	55 FR 8346	12/4/2003	68 FR 67935		
PART 63 – NESHAP							
A	General Provisions	3/16/1994	59 FR 12430	6/20/2013	78 FR 37145	3/27/2014	79 FR 17363
						6/30/2015	80 FR 37390
						8/19/2015	80 FR 50436
						9/18/2015	80 FR 56738
						10/15/2015	80 FR 62414
						10/26/2015	80 FR 65520
						12/1/2015	80 FR 75236
						12/4/2015	80 FR 75817
F	Synthetic Organic Chemical Manufacturing Industry (SOCMI)	4/22/1994	59 FR 19454	12/21/2006	71 FR 76614		
G	SOCMI - Process Vents, Storage Vessels, Transfer Operations, and Wastewater	4/22/1994	59 FR 19468	12/22/2008	73 FR 78213		
H	SOCMI - Equipment Leaks	4/22/1994	59 FR 19568	12/22/2008	73 FR 78213		
I	Certain Processes Subject to the Negotiated Regulations for Equipment Leaks	4/22/1994	59 FR 19587	6/23/2003	68 FR 37345		
J	Polyvinyl Chloride and Copolymers Production	7/10/2002	67 FR 45892				
L	Coke Oven Batteries	10/27/1993	58 FR 57911	4/20/2006	70 FR 20456		
M	Perchloroethylene Dry Cleaning	9/22/1993	58 FR 49376	7/11/2008	73 FR 39874		
N	Hard and Decorative Chromium Electroplating and Chromium Anodizing	1/25/1995	60 FR 4963	9/19/2012	77 FR 58242	4/21/2015	80 FR 22116
O	Ethylene Oxide Sterilization	12/6/1994	59 FR 62589	12/19/2005	70 FR 75345		
Q	Industrial Process Cooling Towers	9/8/1994	59 FR 46350	4/7/2006	71 FR 17738		
R	Gasoline Distribution Facilities	12/14/1994	59 FR 64318	12/22/2008	73 FR 78213		
S	Pulp and Paper Industry	4/15/1998	63 FR 18616	9/11/2012	77 FR 55710		
T	Halogenated Solvent Cleaning	12/2/1994	59 FR 61805	5/3/2007	72 FR 25157	Item G 000	0177

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	New EPA Standards in Bold						
U	Group I Polymers and Resins	9/5/1996	61 FR 46924	12/22/2008	73 FR 78213		
W	Epoxy Resins Production and Non-Nylon Polyamides Production	3/8/1995	60 FR 12676	4/20/2006	70 FR 20457		
X	Secondary Lead Smelting	6/23/1995	60 FR 32594	1/5/2012	77 FR 580	1/13/2014	79 FR 371
Y	Marine Tank Loading Operations	9/15/1995	60 FR 48399	4/20/2006	70 FR 20457	12/1/2015	80 FR 75237
AA	Phosphoric Acid Manufacturing	6/10/1999	64 FR 31376	4/20/2006	70 FR 20457	8/19/2015	80 FR 50436
BB	Phosphate Fertilizer Production	6/10/1999	64 FR 31382	4/20/2006	70 FR 20457	8/19/2015	80 FR 50450
CC	Petroleum Refineries	8/18/1995	60 FR 43260	6/20/2013	78 FR 37145	12/1/2015	80 FR 75237
DD	Off-Site Waste and Recovery	7/1/1996	61 FR 34158	4/20/2006	70 FR 20457	3/18/2015	80 FR 14271
EE	Magnetic Tape Manufacturing	12/15/1994	59 FR 64596	6/23/2003	68 FR 37352		
GG	Aerospace Manufacturing and Rework	9/1/1995	60 FR 45956	4/20/2006	70 FR 20457	12/7/2015	80 FR 76179
HH	Oil and Natural Gas Production	6/17/1999	64 FR 32628	8/16/2012	77 FR 49568		
II	Shipbuilding and Ship Repair (Surface Coating)	12/15/1995	60 FR 64336	11/21/2011	76 FR 72068		
JJ	Wood Furniture Manufacturing	12/7/1995	60 FR 62936	6/23/2003	68 FR 37353		
KK	Printing and Publishing	5/30/1996	61 FR 27140	5/24/2006	71 FR 29799		
LL	Primary Aluminum Reduction	10/7/1997	62 FR 52407	4/20/2006	70 FR 20458	10/15/2015	80 FR 62414
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills	1/12/2001	66 FR 3193	4/20/2006	70 FR 20458		
NN	Area Sources: Wool Fiberglass Manufacturing	7/29/2015	80 FR 45325				
OO	Tanks - Level 1	7/1/1996	61 FR 34184	6/23/2003	68 FR 37354		
PP	Containers	7/1/1996	61 FR 34186	6/23/2003	68 FR 37355		
QQ	Surface Impoundments	7/1/1996	61 FR 34190	6/23/2003	68 FR 37355		
RR	Individual Drain Systems	7/1/1996	61 FR 34193	6/23/2003	68 FR 37355		
SS	Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process	6/29/1999	64 FR 34866	4/20/2006	70 FR 20458		
TT	Equipment Leaks - Control Level 1	6/29/1999	64 FR 34886	7/12/2002	67 FR 46278		
UU	Equipment Leaks - Control Level 2	6/29/1999	64 FR 34899	7/12/2002	67 FR 46279		
VV	Oil-Water Separators and Organic-Water Separators	7/1/1996	61 FR 34195	6/23/2003	68 FR 37355		
WW	Storage Vessels (Tanks) - Control Level 2	6/29/1999	64 FR 34918	7/12/2002	67 FR 46279		
XX	Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations	7/12/2002	67 FR 46271	4/13/2005	70 FR 19271		
YY	Generic MACT	6/29/1999	64 FR 34921	6/29/2007	72 FR 125	10/8/2014	79 FR 60922
CCC	Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants	6/22/1999	64 FR 33218	4/20/2006	70 FR 20459		

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DDD	Mineral Wool Production	6/1/1999	64 FR 29503	12/1/2011	76 FR 74708	7/29/2015	80 FR 45329
EEE	Hazardous Waste Combustors	6/19/1998	63 FR 33820	10/28/2008	73 FR 64094		
GGG	Pharmaceuticals Production	9/21/1998	63 FR 50326	12/22/2008	73 FR 78214		
HHH	Natural Gas Transmission and Storage Facilities	6/17/1999	64 FR 32647	8/16/2012	77 FR 49584		
III	Flexible Polyurethane Foam Production	10/7/1998	63 FR 53996	6/23/2003	68 FR 37357	8/15/2014	79 FR 48086
JJJ	Group IV Polymers and Resins	9/12/1996	61 FR 48229	12/22/2008	73 FR 78214	3/27/2014	79 FR 17363
LLL	Portland Cement Manufacturing	6/14/1999	64 FR 31925	2/12/2013	78 FR 10036	7/27/2015	80 FR 44778
						9/11/2015	80 FR 54729
MMM	Pesticide Active Ingredient Production	6/23/1999	64 FR 33589	4/20/2006	70 CFR 20460	3/27/2014	79 FR 17371
NNN	Wool Fiberglass Manufacturing	6/14/1999	64 FR 31708	4/20/2006	71 FR 20460		
OOO	Manufacture of Amino/Phenolic Resins	1/20/2000	65 FR 3290	4/20/2006	70 CFR 20460	10/8/2014	79 FR 60929
PPP	Polyether Polyols Production	6/1/1999	64 FR 29439	4/20/2006	70 FR 20461	3/27/2015	79 FR 17376
QQQ	Primary Copper	6/12/2002	67 FR 40491	4/20/2006	71 FR 20461		
RRR	Secondary Aluminum Production	3/23/2000	65 FR 15689	4/20/2006	71 FR 20461	9/18/2015	80 FR 56738
						6/13/2016	81 FR 38087
TTT	Primary Lead Smelting	6/4/1999	64 FR 30204	11/15/2011	76 FR 70852		
UUU	Petroleum Refineries-Catalytic Cracking, Catalytic Reforming & Sulfur Recovery	4/11/2002	67 FR 17773	4/20/2006	71 FR 20462	12/1/2015	80 FR 75273
VVV	Publicly Owned Treatment Works	10/26/1999	64 FR 57579	12/22/2008	73 FR 78215		
XXX	Ferroalloys Production: Ferromanganese and Silicomanganese	5/20/1999	64 FR 27458	4/20/2006	71 FR 20462	6/30/2015	80 FR 37390
AAAA	Municipal Solid Waste Landfills	1/16/2003	68 FR 2238	4/20/2006	71 FR 20462		
CCCC	Manufacturing Nutritional Yeast	5/21/2001	66 FR 27884	4/20/2006	71 FR 20462		
DDDD	Plywood and Composite Wood Products	7/30/2004	69 FR 46011	10/29/2007	72 FR 61062		
EEEE	Organic Liquids Distribution (non-gasoline)	2/3/2004	69 FR 5063	12/22/2008	73 FR 78215		
FFFF	Misc. Organic Chemical Production and Processes (MON)	11/10/2003	68 FR 63888	12/22/2008	73 FR 78216		
GGGG	Solvent Extraction for Vegetable Oil Production	4/12/2001	66 FR 19011	4/20/2006	71 FR 20463		
HHHH	Wet Formed Fiberglass Mat Production	4/11/2002	67 FR 17835	4/20/2006	71 FR 20464		
IIII	Auto and Light Duty Trucks (Surface Coating	4/26/2004	69 FR 22623	4/24/2007	72 FR 20233		
JJJJ	Paper & Other Web (Surface Coating)	12/4/2002	67 FR 72341	5/24/2006	71 FR 29805		
KKKK	Metal Can (Surface Coating)	11/23/2003	68 FR 64446	4/20/2006	71 FR 20465		
MMMM	Misc. Metal Parts and Products (Surface Coating)	1/2/2004	69 FR 157	12/22/2006	71 FR 76927		
NNNN	Large Appliances (Surface Coating)	7/23/2002	67 FR 48262	4/20/2006	71 FR 20465	Item G 000179	

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OOOO	Fabric Printing, Coating and Drying	5/29/2003	68 FR 32189	5/24/2006	71 FR 29805		
PPPP	Plastic Parts (Surface Coating)	4/19/2004	69 FR 20990	4/24/2007	72 FR 20237		
QQQQ	Wood Building Products (Surface Coating)	5/28/2003	68 FR 31760	4/20/2006	71 FR 20465		
RRRR	Metal Furniture (Surface Coating)	5/23/2003	68 FR 28619	4/20/2006	71 FR 20466		
SSSS	Metal Coil	6/10/2002	67 FR 39812	3/17/2003	68 FR 12592		
TTTT	Leather Finishing Operations	2/27/2002	67 FR 9162	2/7/2005	70 FR 6360		
UUUU	Cellulose Production Manufacturing	6/11/2002	67 FR 40055	12/22/2008	73 FR 78213		
VVVV	Boat Manufacturing	8/22/2001	66 FR 44232	10/3/2001	66 FR 50504		
WWWW	Reinforced Plastics Composites Production	4/21/2003	68 FR 19402	4/20/2006	71 FR 20466		
XXXX	Tire Manufacturing	7/9/2002	67 FR 45598	4/20/2006	71 FR 20466		
YYYY	Combustion Turbines	3/5/2004	69 FR 10537	4/20/2006	71 FR 20467		
ZZZZ	Stationary Reciprocating Internal Combustion Engines	6/15/2004	69 FR 33506	3/6/2013	78 FR 14457		
AAAAA	Lime Manufacturing	1/5/2004	69 FR 416	4/20/2006	71 FR 20467		
BBBBB	Semiconductor Manufacturing	5/22/2003	68 FR 27925	7/22/2008	73 FR 42532		
CCCCC	Coke Oven: Pushing, Quenching & Battery Stacks	4/14/2003	68 FR 18025	4/20/2006	71 FR 20467		
DDDDD	Industrial, Commercial, and Institutional Boilers and Process Heaters	3/21/11	76 FR 15664	1/31/2013	78 FR 7162	11/20/2015	80 FR 72807
EEEEE	Iron and Steel Foundries	4/22/2004	69 FR 21923	2/7/2008	73 FR 7218		
FFFFF	Integrated Iron & Steel	5/20/2003	68 FR 27663	7/13/2006	71 FR 39585		
GGGGG	Site Remediation	10/8/2003	68 FR 58190	12/22/2008	73 FR 78216		
HHHHH	Misc. Coating Manufacturing	12/11/2003	68 FR 69185	12/22/2008	73 FR 78217		
IIIII	Mercury Cell Chlor-Alkali Plants	12/19/2003	68 FR 70928	4/20/2006	71 FR 20469		
JJJJJ	Brick and Structural Clay Products Manufacturing	5/16/2003	68 FR 26722	6/23/2006	71 FR 36014	10/26/2015	80 FR 65520
KKKKK	Clay Ceramics Manufacturing	5/16/2003	68 FR 26738	6/23/2006	71 FR 36014	12/4/2015	80 FR 65543
LLLLL	Asphalt Processing & Asphalt Roofing Manufacturing	4/29/2003	68 FR 22991	4/20/2006	71 FR 20649		
MMMMM	Flexible Polyurethane Foam Fabrication Operations	4/14/2003	68 FR 18070	4/20/2006	71 FR 20470		
NNNNN	Hydrochloric Acid Production	4/17/2003	68 FR 19090	4/20/2006	71 FR 20470		
PPPPP	Engine Test Cells/Standards	5/27/2003	68 FR 28785	4/20/2006	71 FR 20470		
QQQQQ	Friction Products Manufacturing	10/18/2002	67 FR 64507	4/20/2006	71 FR 20470		
RRRRR	Taconite Iron Ore Processing	10/30/2003	68 FR 61888	4/20/2006	71 FR 20470		
SSSSS	Refractories Products Manufacturing	4/16/2003	68 FR 18747	4/20/2006	71 FR 20471		

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TTTTT	Primary Magnesium Refining	10/10/2003	68 FR 58620	4/20/2006	71 FR 20471		
UUUUU	Coal- and Oil-Fired Electric Utility Steam Generating Units	2/16/2012	77 FR 9464	4/24/2013	78 FR 24084	11/19/2014	79 FR 58799
						11/19/2014	79 FR 68788
						3/24/2015	80 FR 15514
						4/6/2016	80 FR 20180
WWWWW	Area Sources: Hospital Ethylene Oxide Sterilizers	12/28/2007	72 FR 73623				
YYYYY	Area Sources: Electric Arc Furnace Steelmaking Facilities	12/28/2007	72 FR 74111	2/26/2009	74 FR 8756	6/24/2015	80 FR 36247
ZZZZZ	Area Sources: Iron and Steel Foundries	1/20/2008	73 FR 252				
BBBBBB	Area Sources: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities	1/10/2008	73 FR 1934	1/24/2011	76 FR 4176		
DDDDDD	Area Sources: Polyvinyl Chloride and Copolymers Production	1/23/2007	72 FR 2943	4/17/2012	77 FR 22904	2/4/2015	80 FR 5940
EEEEEE	Area Sources: Primary Copper Smelting	1/23/2007	72 FR 2944	7/3/2007	72 FR 36367		
FFFFFF	Area Sources: Secondary Copper Smelting	1/23/2007	72 FR 2952	7/3/2007	72 FR 36367		
JJJJJ	Area Sources: Industrial, Commercial, and Institutional Boilers	3/21/11	76 FR 15591	2/1/2013	78 FR 7506		
LLLLLL	Area Sources: Acrylic and Modacrylic Fibers Production	7/16/2007	72 FR 38899	3/26/2008	73 FR 15928		
MMMMMM	Area Sources: Carbon Black Production	7/16/2007	72 FR 38904	3/26/2008	73 FR 15928		
NNNNNN	Area Sources: Chemical Manufacturing: Chromium Compounds	7/16/2007	72 FR 38905	3/26/2008	73 FR 15928		
OOOOOO	Area Sources: Flexible Polyurethane Production and Fabrication	7/16/2007	72 FR 38910	3/26/2008	73 FR 15928		
PPPPPP	Area Sources: Lead Acid Battery Manufacturing	7/16/2007	72 FR 38913	3/26/2008	73 FR 15929		
QQQQQQ	Area Sources: Wood Preserving	7/16/2007	72 FR 38915	3/26/2008	73 FR 15929		
RRRRRR	Area Sources: Clay Ceramics Manufacturing	12/26/2007	72 FR 73197				
SSSSSS	Area Sources: Glass Manufacturing	12/26/2007	72 FR 73201				
TTTTTT	Area Sources: Secondary Nonferrous Metals Processing	12/26/2007	72 FR 73207				
VVVVVV	Area Sources: Chemical Manufacturing	10/29/2009	74 FR 56041	12/21/2012	77 FR 75756		
WWWWWW	Area Sources: Plating and Polishing Operations	7/1/2008	73 FR 37741	9/19/2011	76 FR 57919		
XXXXXX	Area Sources: Nine Metal Fabrication and Finishing	7/23/2008	73 FR 43000				
YYYYYY	Area Sources: Ferroalloys Production	12/23/2008	73 FR 78644				
ZZZZZZ	Area Sources: Aluminum, Copper, and Other Nonferrous Foundries	6/25/2009	74 FR 30393	9/10/2009	74 FR 46495		
AAAAAAA	Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing	12/2/2009	74 FR 63260	3/18/2010	75 FR 12989		
BBBBBBB	Area Sources: Chemical Preparations	12/30/2009	74 FR 69208				

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CCCCCCC	Area Sources: Paints and Allied Products Manufacturing	12/3/2009	74 FR 63525	6/3/2010	75 FR 31320		
DDDDDDD	Area Sources: Prepared Feeds Manufacturing	1/5/2010	75 FR 546	12/23/2011	76 FR 80265		
EEEEEEE	Area Sources: Gold Mine Ore Processing and Production	2/17/2011	76 FR 9480				
HHHHHHH	Polyvinyl Chloride and Copolymers Production	4/17/2012	77 FR 22907				