

# Cleaner Air Oregon Toxic Air Contaminant Review and Update 2026

## Draft Rules – Edits Highlighted

### Key to identifying changed text:

- Deleted Text
- New/inserted text

### Division 245 CLEANER AIR OREGON

#### 340-245-0210

#### Modeling and Risk Assessment Work Plan Requirements

The owner or operator of a source must follow the applicable procedures in this rule when required to perform a risk assessment under OAR 340-245-0050 or 340-245-0060.

(1) Modeling Requirements. All modeled estimates of ambient concentrations required under this division must be based on the applicable air quality models and other requirements as specified in 40 CFR part 51, Appendix W, "Guidelines on Air Quality Models (Revised)," or a substantially equivalent model or requirement approved by DEQ. Any change or substitution from models and procedures specified in 40 CFR part 51, Appendix W must be approved by DEQ in advance and incorporated in the modeling protocol. AERSCREEN and AERMOD are examples of approved air quality models.

(a) When choosing to perform a Level 1 Risk Assessment or modeling for a Level 2, Level 3 or Level 4 Risk Assessment, the owner or operator of a source must first submit a modeling protocol that must be approved by DEQ as required in OAR 340-245-0030. The necessary information to perform any modeling will depend on the risk assessment level and the model being used, if any, and may include but is not limited to:

(A) Toxic air contaminant emission rates based on the emissions inventory submitted under OAR 340-245-0040(1);

(B) Stack parameter and building data, including stack height above ground, stack orientation and configuration, exit diameter, exit velocity, and exit temperature, for all existing and proposed emission points from the source, and dimension data of buildings;

(C) Meteorological and topographical data;

(D) Information about the dispersion models and modeling parameters used;

(E) Exposure locations where ambient concentrations will be modeled;

(F) For determining exposure locations where ambient concentrations will be modeled, an owner or operator may provide documentation to demonstrate an area is not being used in the manner allowed by the land use zoning at the time the modeling is to be performed, and may request that the land use zoning classification of these areas be excluded in determining chronic exposure locations. If DEQ approves an exclusion under this paragraph, then:

(i) The owner or operator must model the approved locations based on their actual use;

(ii) The owner or operator must annually submit to DEQ documentation showing the areas subject to the excluded land use zoning classification continue to not be used in the manner allowed by the land use zoning applicable to the area; and

(iii) If the annual documentation provided under subparagraph (ii) shows the area is being used in the manner allowed by the land use zoning and results in potential exposure to toxic air contaminants from the source, the owner or operator must update the risk assessment based on the change in use and apply for a Toxic Air Contaminant Permit Addendum modification under OAR 340-245-0100(8) or for an operating permit modification under OAR 340 division 216 or 218 using the procedures in this division, if applicable;

(G) Use of other exposure locations where DEQ determines, based on documented evidence, that an area is not being used in the manner allowed by the land use zoning at the time the modeling is to be performed, such area should be considered an exposure location based on its actual use; and

(H) Other information that may be necessary to estimate air quality concentrations and risk at exposure locations;

(b) For the purpose of any risk assessment undertaken by DEQ, the owner or operator of any permitted or unpermitted source must submit the information in subsection (a) within 30 days of the written request from DEQ. DEQ shall use the procedures in OAR 340-245-0030 to review the information in determining its completeness, consider extensions requests, and request additional information, if needed.

(2) Risk assessment work plan requirements. When choosing to conduct a Level 3 or Level 4 Risk Assessment, the owner or operator of a source must submit a risk assessment work plan that must be approved by DEQ as required in OAR 340-245-0030. The work plan must be developed in consultation with DEQ and include but is not limited to:

(a) A problem formulation step ending with development of a conceptual site model identifying TEUs and exposure locations;

(b) An exposure assessment that models or measures toxic air contaminant concentrations at exposure locations;

(c) A risk characterization presenting a quantitative calculation of excess cancer, chronic noncancer and acute noncancer health risks associated with human exposure to toxic air contaminant emissions from the source;

(d) A quantitative or qualitative uncertainty evaluation of appropriate elements of the risk assessment;

(e) A Level 4 Risk Assessment must also include a toxicity assessment evaluating the carcinogenic effects, noncarcinogenic chronic effects, and noncarcinogenic acute effects of toxic air contaminants to which human populations may be exposed, and determining persistence and bioaccumulation potential. Sources may not consider Toxicity Reference Values other than those listed in OAR 340-247-8010 Table 2; and

(f) In a Level 4 Risk Assessment, the owner or operator may propose modifications to default exposure assumptions, including but not limited to:

(A) Exposure times, frequencies, and durations;

(B) Relative bioavailability of chemicals; and

(C) Multipathway considerations for persistent, and bioaccumulative and toxic chemicals.

**(g) DEQ may allow modifications to the default soil exposure assumptions at nonresidential child exposure locations to correspond with the actual ages exposed at those locations, without requiring a Level 4 Risk Assessment.**

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.135 & 468A.337

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, 468A.337 & 468A.335

**History:**

DEQ 18-2021, amend filed 11/17/2021, effective 11/17/2021

DEQ 197-2018, adopt filed 11/16/2018, effective 11/16/2018

**Division 247**

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

**340-247-0040**

**Process for Updating the Lists of Priority Toxic Air Contaminants and Toxicity Reference Values**

(1) Purpose.

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

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

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

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

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

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

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

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

(3) OAR 340-247-8020 Table 2, Toxicity Reference Values. Every ~~fivethree~~ years starting from November 16, 2018, or as necessary, DEQ, in consultation with OHA, will begin review of the toxic air contaminants and Toxicity Reference Values published by the authoritative sources listed in OAR 340-247-0030 for changes since the last review. DEQ will propose rule amendments to implement one or more of the following actions, as appropriate:

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

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

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

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

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

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

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

(B) The chemical is toxic;

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

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

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

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

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

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

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

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

(f) If DEQ, after consultation with OHA, determines that revisions are warranted as a result of a petition, DEQ will consult with ATSAC and propose rule amendments to revise TRVs or for additions or removals of toxic air contaminants to the Priority Toxic Air Contaminants List in OAR 340-247-8010 Table 1 or the TRV list in OAR 340-247-8020 Table 2; and

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

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

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

**History:**

DEQ 18-2021, adopt filed 11/17/2021, effective 11/17/2021

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## **Non-discrimination statement**

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