

(b)The owner or operator of any source subject to this rule that significantly impacts air quality in a designated nonattainment or maintenance area must meet the requirements of net air quality benefit in 340-225-0090.

(3) Air Quality Monitoring: The owner or operator of a source subject to this rule must conduct ambient air quality monitoring in accordance with the requirements in OAR 340-225-0050.

(4) The owner or operator of a source subject to this rule and significantly impacting a PM10 maintenance area (significant air quality impact is defined in OAR 340-200-0020), must comply with the requirements of 340-224-0060(2).

State effective: 5/1/2011; EPA effective: 1/26/2012; 76 FR 80747

340-224-0080 Exemptions

Temporary emission sources that would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification must comply with OAR 340-224-0050(1), 340-224-0060(1) or 340-224-0070(1), whichever is applicable, but are exempt from the remaining requirements of OAR 340-224-0050, 340-224-0060 and 340-224-0070 provided that the source or modification would not impact a Class I area or an area with a known violation of a National Ambient Air Quality Standard (NAAQS) or an applicable increment as defined in OAR 340 division 202.

State effective: 4/14/2004; EPA effective: 8/18/2006; 71 FR 35163

340-224-0100 FUGITIVE AND SECONDARY EMISSIONS

Fugitive emissions are included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions are not included in calculations of potential emissions that are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions are added to the primary emissions and become subject to the air quality impact analysis requirements in this division and OAR 340 division 225.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

DIVISION 225

AIR QUALITY ANALYSIS REQUIREMENTS

340-225-0010 Purpose

This division contains the definitions and requirements for air quality analysis referred to in OAR 340 divisions 200 through 268. It does not apply unless a rule in another division refers the reader here. For example, divisions 222 (Stationary Source Plant Site Emissions Limits) and 224 (Major New Source Review) refer the reader to provisions in this division for specific air quality analysis requirements.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-225-0020 Definitions

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

(1) "Allowable Emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) The applicable standards as set forth in 40 CFR Parts 60, 61 and 63;

(b) The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

(c) The emissions rate specified as a federally enforceable permit condition.

(2) "Background Light Extinction" means the reference levels (Mm-1) shown in the estimates of natural conditions as referenced in the FLAG to be representative of the PSD Class I or Class II area being evaluated.

(3) "Baseline Concentration" means:

(a) Except as provided in subsection (c), the ambient concentration level for sulfur dioxide and PM10 that existed in an area during the calendar year 1978. Actual emission increases or decreases occurring before January 1, 1978 must be included in the baseline calculation, except that actual emission increases from any source or modification on which construction commenced after January 6, 1975 must not be included in the baseline calculation;

(b) The ambient concentration level for nitrogen oxides that existed in an area during the calendar year 1988.

(c) For the area of northeastern Oregon within the boundaries of the Umatilla, Wallowa-Whitman, Ochoco, and Malheur National Forests, the ambient concentration level for PM10 that existed during the calendar year 1993. The Department may allow the source to use an earlier time period if the Department determines that it is more representative of normal emissions.

(d) For PM10 in the Medford-Ashland AQMA: the ambient PM10 concentration levels that existed during the year that EPA redesignates the AQMA to attainment for PM10.

(e) The ambient concentration level for PM2.5 that existed in an area during the calendar year 2007.

(f) If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for the years specified in subsections (a) through (e) of this section.

(4) "Competing PSD Increment Consuming Source Impacts" means the total modeled concentration above the modeled Baseline Concentration resulting from increased emissions of all other sources since the baseline concentration year that are within the Range of Influence of the source in question. Allowable Emissions may be used as a conservative estimate, in lieu of Actual Emissions, in this analysis.

(5) "Competing NAAQS Source Impacts" means total modeled concentration resulting from allowable emissions of all other sources that are within the Range of Influence of the source in question.

(6) "FLAG" refers to the Federal Land Managers' Air Quality Related Values Work Group Phase I Report - REVISED. See 75 Federal Register 66125, October 27, 2010.

(7) "General Background Concentration" means impacts from natural sources and unidentified sources that were not explicitly modeled. The Department may determine this as site-specific ambient monitoring or representative ambient monitoring from another location.

(8) "Predicted Maintenance Area Concentration" means the future year ambient concentration predicted by the Department in the applicable maintenance plan as follows:

(a) The future year (2015) concentrations for the Grants Pass UGB are 89 $\mu\text{g}/\text{m}^3$ (24-hour average) and 21 $\mu\text{g}/\text{m}^3$ (annual average).

(b) The future year (2015) concentrations for the Klamath Falls UGB are 114 $\mu\text{g}/\text{m}^3$ (24-hour average) and 25 $\mu\text{g}/\text{m}^3$ (annual average).

(c) The future year (2025) concentrations for the Lakeview UGB are 126 $\mu\text{g}/\text{m}^3$ (24-hour average) and 27 $\mu\text{g}/\text{m}^3$ (annual average).

(9) "Nitrogen Deposition" means the sum of anion and cation nitrogen deposition expressed in terms of the mass of total elemental nitrogen being deposited. As an example, Nitrogen Deposition for NH_4NO_3 is 0.3500 times the weight of NH_4NO_3 being deposited.

(10) "Ozone Precursor Distance" means the distance in kilometers from the nearest boundary of a designated ozone nonattainment or maintenance area within which a major new or modified source of VOC or NO_x is considered to significantly affect that designated area. The determination of significance is made by either the formula method or the demonstration method.

(a) The Formula Method.

(A) For sources with complete permit applications submitted before January 1, 2003: $D = 30 \text{ km}$

(B) For sources with complete permit applications submitted on or after January 1, 2003: $D = (Q/40) \times 30 \text{ km}$

(C) D is the Ozone Precursor Distance in kilometers. The value for D is 100 kilometers when D is calculated to exceed 100 kilometers. Q is the larger of the NO_x or VOC emissions increase from the source being evaluated in tons/year, and is quantified relative to the netting basis.

(D) If a source is located at a distance less than D from the designated area, the source is considered to have a significant effect on the designated area. If the source is located at a distance equal to or greater than D, it is not considered to have a significant effect.

(b) The Demonstration Method. An applicant may demonstrate to the Department that the source or proposed source would not significantly impact a nonattainment area or maintenance area. This demonstration may be based on an analysis of major topographic features, dispersion modeling, meteorological conditions, or other factors. If the Department determines that the source or proposed source would not significantly impact the nonattainment area or maintenance area under high ozone conditions, the Ozone Precursor Distance is zero kilometers.

(11) "Ozone Precursor Offsets" means the emission reductions required to offset emission increases from a major new or modified source located inside the designated nonattainment or

maintenance area or within the Ozone Precursor Distance. Emission reductions must come from within the designated area or from within the Ozone Precursor Distance of the offsetting source as described in OAR 340-225-0090. The offsets determination is made by either the formula method or the demonstration method.

(a) The Formula Method.

(A) Required offsets (RO) for new or modified sources are determined as follows:

(i) For sources with complete permit applications submitted before January 1, 2003: $RO = SQ$

(ii) For sources with complete permit applications submitted on or after January 1, 2003: $RO = (SQ \text{ minus } (40/30 * SD))$

(B) Contributing sources may provide offsets (PO) calculated as follows: $PO = CQ \text{ minus } (40/30 * CD)$

(C) Multiple sources may contribute to the required offsets of a new source. For the formula method to be satisfied, total provided offsets (PO) must equal or exceed the required offset (RO).

(D) Definitions of factors used in paragraphs (A) (B) and (C) of this subsection:

(i) RO is the required offset of NO_x or VOC in tons per year as a result of the source emissions increase. If RO is calculated to be negative, RO is set to zero;

(ii) SQ is the source emissions increase of NO_x or VOC in tons per year above the netting basis;

(iii) SD is the source distance in kilometers to the nonattainment or maintenance area. SD is zero for sources located within the nonattainment or maintenance area.

(iv) PO is the provided offset from a contributing source and must be equal to or greater than zero;

(v) CQ is the contributing emissions reduction in tons per year quantified relative to contemporaneous pre-reduction actual emissions (OAR 340-268-0030(1)(b)).

(vi) CD is the contributing source distance in kilometers to the nonattainment or maintenance area. For a contributing source located within the nonattainment or maintenance area, CD equals zero.

(b) The Demonstration Method. An applicant may demonstrate to the Department using dispersion modeling or other analyses the level and location of offsets that would be sufficient to provide actual reductions in concentrations of VOC or NO_x in the designated area during high ozone conditions. The modeled reductions of ambient VOC or NO_x concentrations resulting from the emissions offset must be demonstrated over a greater area and over a greater period of time within the designated area as compared to the modeled ambient VOC or NO_x concentrations resulting from the emissions increase from the source subject to this rule. If the Department determines that the demonstration is acceptable, then the Department will approve the offsets proposed by the applicant. The demonstration method does not apply to sources located inside an ozone nonattainment area.

(12) "Range of Influence (ROI)" means:

(a) For PSD Class II and Class III areas, the Range of Influence of a competing source (in

kilometers) is defined by:

(A) $ROI (km) = Q (tons/year) / K (tons/year km)$.

(B) Definition of factors used in paragraph (A) of this subsection:

(i) ROI is the distance a source has an effect on an area and is compared to the distance from a potential competing source to the Significant Impact Area of a proposed new source. Maximum ROI is 50 km, however the Department may request that sources at a distance greater than 50 km be included in a competing source analysis.

(ii) Q is the emission rate of the potential competing source in tons per year.

(iii) K (tons/year km) is a pollutant specific constant as defined in the table below:

Table 1					
Constant K for Range of Influence Calculation					
Pollutant	PM2.5/PM10	SO _x	NO _x	CO	Lead
K	5	5	5	40	0.15

(b) For PSD Class I areas, the Range of Influence of a competing source includes emissions from all sources that occur within the modeling domain of the source being evaluated. The Department determines the modeling domain on a case-by-case basis.

(13) "Source Impact Area" means a circular area with a radius extending from the source to the largest distance to where predicted impacts from the source or modification equal or exceed the Significant Air Quality Impact levels set out in Table 1 of OAR 340 division 200. This definition only applies to PSD Class II areas and is not intended to limit the distance for PSD Class I modeling.

(14) "Sulfur Deposition" means the sum of anion and cation sulfur deposition expressed in terms of the total mass of elemental sulfur being deposited. As an example, sulfur deposition for (NH₄)₂SO₄ is 0.2427 times the weight of (NH₄)₂SO₄ being deposited.

State effective: 5/1/2011; EPA effective: 1/26/2012; 76 FR 80747

340-225-0030 Procedural Requirements

Information Required. In addition to the requirements defined in OAR 340-216-0040, the owner or operator of a source (where required by divisions 222 or 224) must submit all information necessary to perform any analysis or make any determination required under these rules. Such information must include, but is not limited to:

(1) Emissions data for all existing and proposed emission points from the source or modification. This data must represent maximum emissions for the averaging times by pollutant consistent with the ambient air quality standards in division 202:

(2) Stack parameter data (height above ground, exit diameter, exit velocity, and exit temperature data for all existing and proposed emission points from the source or modification;

(3) An analysis of the air quality and visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

(4) An analysis of the air quality and visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, that has occurred since January 1, 1978, in the area the source or modification would significantly affect.

State effective: 5/1/2011; EPA effective: 1/26/2012; 76 FR 80747

340-225-0040 Air Quality Models

All modeled estimates of ambient concentrations required under this rule must be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR Part 51, Appendix W, "Guidelines on Air Quality Models (Revised)" (July 1, 2000). Where an air quality impact model specified in 40 CFR Part 51, Appendix W is inappropriate, the methods published in the FLAG are generally preferred for analyses in PSD Class I areas. Where an air quality impact model specified in 40 CFR Part 51, Appendix W is inappropriate in PSD Class II and III areas, the model may be modified or another model substituted. Any change or substitution from models specified in 40 CFR Part 51, Appendix W is subject to notice and opportunity for public comment and must receive prior written approval from the Department and the EPA. Where necessary, methods like those outlined in the "Interim Procedures for Evaluating Air Quality Models (Revised)" (U.S. Environmental Protection Agency, 1984) provide guidance in determining the comparability of models.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-225-0045 Requirements for Analysis in Maintenance Areas

Modeling: For determining compliance with the limits established in OAR 340-224-0060(2)(c) and (2)(d), NAAQS, and PSD Increments, the following methods must be used:

(1) For each maintenance pollutant and its precursors, a single source impact analysis is sufficient to show compliance with standards, PSD increments, and limits if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification being evaluated are less than the Class II Significant Air Quality Impact Levels specified in OAR 340-200-0020 Table 1.

(2) If the requirement in section (1) of this rule is not satisfied, the owner or operator of a proposed source or modification being evaluated must perform competing source modeling as follows:

(a) For demonstrating compliance with the maintenance area limits established in OAR 340-224-0060(2)(c) and (2)(d), the owner or operator of a proposed source or modification must show that modeled impacts from the proposed increased emissions plus Competing Source Impacts, plus predicted maintenance area concentration are less than the limits for all averaging times.

(b) For demonstrating compliance with the NAAQS, the owner or operator of a proposed source or modification must show that the total modeled impacts plus total Competing NAAQS Source Impacts plus General Background Concentrations are less than the NAAQS for all averaging

(c) For demonstrating compliance with the PSD Increments (as defined in OAR 340-202-0210, Table 1), the owner or operator of a proposed source or modification must show that modeled impacts from the proposed increased emissions (above the baseline concentration) plus competing PSD Increment Consuming Source Impacts (above the baseline concentration) are less than the PSD increments for all averaging times.

State effective: 5/1/2011; EPA effective: 1/26/2012; 76 FR 80747

340-225-0050 Requirements for Analysis in PSD Class II and Class III Areas

Modeling: For determining compliance with the NAAQS and PSD Increments in PSD Class II and Class III areas, the following methods must be used:

(1) For each pollutant and its precursors, a single source impact analysis is sufficient to show compliance with standards and PSD increments if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification being evaluated are less than the Class II Significant Air Quality Impact Levels specified in OAR 340-200-0020, Table 1.

(2) If the requirement in section (1) of this rule is not satisfied, the owner or operator of a proposed source or modification being evaluated must perform competing source modeling as follows:

(a) For demonstrating compliance with the PSD Increments (as defined in OAR 340-202-0210, Table 1), the owner or operator of a proposed source or modification must show that modeled impacts from the proposed increased emissions (above the modeled Baseline Concentration) plus Competing PSD Increment Consuming Source Impacts (above the modeled Baseline Concentration) are less than the PSD increments for all averaging times.

(b) For demonstrating compliance with the NAAQS, the owner or operator of a proposed source must show that the total modeled impacts plus total Competing NAAQS Source Impacts plus General Background Concentrations are less than the NAAQS for all averaging times.

(3) Additional Impact Modeling:

(a) When referred to this rule by divisions 222 or 224, the owner or operator of a source must provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification, and general commercial, residential, industrial and other growth associated with the source or modification. As a part of this analysis, deposition modeling analysis is required for sources emitting heavy metals above the significant emission rates as defined in OAR 340-200-0020, Table 2. Concentration and deposition modeling may also be required for sources emitting other compounds on a case-by-case basis;

(b) The owner or operator must provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

(4) Air Quality Monitoring:

(a)(A) When referred to this rule by division 224, the owner or operator of a source must submit with the application an analysis of ambient air quality in the area impacted by the proposed project. This analysis, which is subject to the Department's approval, must be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. The analysis must include continuous air quality monitoring data for any pollutant that may be emitted by the source or modification, except for volatile organic compounds. The data must relate to the year preceding receipt of the complete application and must have been gathered over the same time period. The Department may allow the owner or operator to demonstrate that data gathered over some other time period would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment. Pursuant to the requirements of these rules, the owner or operator must submit for the Department's approval, a preconstruction air quality monitoring plan. This plan must be submitted in writing at least 60 days prior to the planned beginning of monitoring and approved in writing by

the Department before monitoring begins.

(B) Required air quality monitoring must be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" (July 1, 2000) and with other methods on file with the Department.

(C) The Department may exempt the owner or operator of a proposed source or modification from preconstruction monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that modeled competing source concentration (plus General Background Concentration) of the pollutant within the Source Impact Area are less than the following significant monitoring concentrations:

(i) Carbon monoxide; 575 ug/m³, 8 hour average;

(ii) Nitrogen dioxide; 14 ug/m³, annual average;

(iii) PM₁₀; 10 ug/m³, 24 hour average;

(iv) PM_{2.5}; 4ug/m³, 24-hour average;

(v) Sulfur dioxide; 13 ug/m³, 24 hour average;

(vi) Ozone; Any net increase of 100 tons/year or more of VOCs from a source or modification subject to PSD requires an ambient impact analysis, including the gathering of ambient air quality data. However, requirement for ambient air monitoring may be exempted if existing representative monitoring data shows maximum ozone concentrations are less than 50% of the ozone NAAQS based on a full season of monitoring;

(vii) Lead; 0.1 ug/m³, 24 hour average;

(viii) Fluorides; 0.25 ug/m³, 24 hour average;

(ix) Total reduced sulfur; 10 ug/m³, 1 hour average;

(x) Hydrogen sulfide; 0.04 ug/m³, 1 hour average;

(xi) Reduced sulfur compounds; 10 ug/m³, 1 hour average.

(D) The Department may allow the owner or operator of a source (where required by divisions 222 or 224) to substitute post construction monitoring for the requirements of (4)(a)(A) for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would not cause or contribute to an exceedance of any air quality standard. This analysis must meet the requirements of 340-225-0050(2)(b) and must use representative or conservative General Background Concentration data.

(E) When PM₁₀ preconstruction monitoring is required by this section, at least four months of data must be collected, including the season(s) the Department judges to have the highest PM₁₀ levels. PM₁₀ must be measured in accordance with 40 CFR part 50, Appendix J (July 1, 1999). In some cases, a full year of data will be required.

(b) After construction has been completed, the Department may require ambient air quality monitoring as a permit condition to establish the effect of emissions, other than volatile organic

compounds, on the air quality of any area that such emissions could affect.

State effective: 5/1/2011; EPA effective: 1/26/2012; 76 FR 80747

340-225-0060 Requirements for Demonstrating Compliance with Standards and Increments in PSD Class I Areas

For determining compliance with standards and increments in PSD Class I areas, the following methods must be used:

(1) Before January 1, 2003, the owner or operator of a source (where required by divisions 222 or 224) must model impacts and demonstrate compliance with standards and increments on all PSD Class I areas that may be affected by the source or modification.

(2) On or after January 1, 2003, the owner or operator of a source (where required by divisions 222 or 224) must meet the following requirements:

(a) For each pollutant and its precursors, a single source impact analysis will be sufficient to show compliance with increments if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting bases due to the proposed source or modification being evaluated are demonstrated to be less than the Class I impact levels specified in OAR 340-200-0020 Table 1.

(b) If the requirement in subsection (a) of this section is not satisfied, the owner or operator must also show that the increased source impacts (above Baseline Concentration) plus Competing PSD Increment Consuming Source Impacts are less than the PSD increments for all averaging times

(c) For each pollutant and its precursors, a single source impact analysis will be sufficient to show compliance with standards if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification being evaluated are demonstrated to be less than the Class II impact levels specified in OAR 340-200-0020, Table 1.

(d) If the requirement of subsection (2)(a) of this section is not satisfied, and background monitoring data for each PSD Class I area shows that the NAAQS is more controlling than the PSD increment then the source must also demonstrate compliance with the NAAQS by showing that their total modeled impacts plus total modeled Competing NAAQS Source Impacts plus General Background Concentrations are less than the NAAQS for all averaging times.

State effective: 5/1/2011; EPA effective: 1/26/2012; 76 FR 80747

340-225-0070 Requirements for Demonstrating Compliance with AQRV Protection

(1) Sources that are not Federal Major Sources are exempt from the requirements of the remainder of this rule.

(2) Notice of permit application for actions subject to the requirements of divisions 222 and 224:

(a) If a proposed major source or major modification could impact air quality related values (including visibility) within a Class I area, the Department will provide written notice to the EPA and to the appropriate Federal Land Manager within 30 days of receiving such permit application. The notice will include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area air quality related values (including visibility). The Department will also provide at least 30 days notice to EPA and the appropriate Federal Land Manager of any scheduled public hearings and preliminary and final actions taken on the

application;

(b) If the Department receives advance notice of a permit application for a source that may affect Class I area visibility, the Department will notify all affected Federal Land Managers within 30 days of receiving the advance notice;

(c) During its review of source impacts on Class I area air quality related values (including visibility) pursuant to this rule, the Department will consider any analysis performed by the Federal Land Manager that is received by the Department within 30 days of the notice required by subsection (a). If the Department disagrees with the Federal Land Manager's demonstration, the Department will include a discussion of the disagreement in the Notice of Public Hearing;

(d) As a part of the notification required in OAR 340-209-0060, the Department will provide the Federal Land Manager an opportunity to demonstrate that the emissions from the proposed source or modification would have an adverse impact on air quality related values (including visibility) of any federal mandatory Class I area. This adverse impact determination may be made even if there is no demonstration that a Class I maximum allowable increment has been exceeded. If the Department agrees with the demonstration, it will not issue the permit.

(3) Visibility impact analysis requirements:

(a) If divisions 222 or 224 require a visibility impact analysis, the owner or operator must demonstrate that the potential to emit any pollutant at a significant emission rate in conjunction with all other applicable emission increases or decreases, including secondary emissions, permitted since January 1, 1984 and other increases or decreases in emissions, will not cause or contribute to significant impairment of visibility on any Class I area. The Department also encourages the owner or operator to demonstrate that these same emission increases or decreases will not cause or contribute to significant impairment of visibility on the Columbia River Gorge National Scenic Area (if it is affected by the source);

(b) The owner or operator must submit all information necessary to perform any analysis or demonstration required by these rules pursuant to OAR 340-224-0030(1).

(c) Determination of significant impairment: The results of the modeling must be sent to the affected Federal Land Managers and the Department. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not significant impairment of visibility in a Class I area would result. The Department will consider the comments of the Federal Land Manager in its consideration of whether significant impairment will result. If the Department determines that impairment would result, it will not issue a permit for the proposed source.

(4) Types of visibility modeling required. For receptors in PSD Class I areas within the PSD Class I Range of Influence, a plume blight analysis or regional haze analysis is required.

(5) Criteria for visibility impacts:

(a) The owner or operator of a source (where required by divisions 222 or 224) is encouraged to demonstrate that their impacts on visibility satisfy the guidance criteria as referenced in the FLAG.

(b) If visibility impacts are a concern, the Department will consider comments from the Federal Land Manager when deciding whether significant impairment will result. Emission offsets may also be considered. If the Department determines that impairment would result, it will not issue a permit for the proposed source.

(6) Deposition modeling may be required for receptors in PSD Class I areas where visibility modeling is required. This may include, but is not limited to an analysis of Nitrogen Deposition and Sulfur Deposition.

(7) Visibility monitoring:

(a) If divisions 222 or 224 require visibility monitoring data, the owner or operator must use existing data to establish existing visibility conditions within Class I areas as summarized in the FLAG Report.

(b) After construction has been completed the owner or operator must conduct such visibility monitoring as the Department requires as a permit condition to establish the effect of the pollutant on visibility conditions within the impacted Class I area.

(8) Additional impact analysis: the owner or operator subject to OAR 340-224-0060(3) or OAR 340-224-0070(2) must provide an analysis of the impact to visibility that would occur as a result of the proposed source or modification and general commercial, residential, industrial, and other growth associated with the source or major modification.

(9) If the Federal Land Manager recommends and the Department agrees, the Department may require the owner or operator to analyze the potential impacts on other Air Quality Related Values and how to protect them. Procedures from the FLAG report should be used in this recommendation. Emission offsets may also be used. If the Federal Land Manager finds that significant impairment would result from the proposed activities and Department agrees, the Department will not issue a permit for the proposed source.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-225-0090 Requirements for Demonstrating a Net Air Quality Benefit

Demonstrations of net air quality benefit for offsets must include the following:

(1) Ozone areas (VOC and NO_x emissions). For sources capable of impacting a designated ozone nonattainment or maintenance area;

(a) Offsets for VOC and NO_x are required if the source will be located within the designated area or within the Ozone Precursor Distance.

(b) The amount and location of offsets must be determined in accordance with this subsection:

(A) For new or modified sources locating within a designated nonattainment area, the offset ratio is 1.1:1. These offsets must come from within either the same designated nonattainment area as the new or modified source or another ozone nonattainment area (with equal or higher nonattainment classification) that contributes to a violation of the NAAQS in the same designated nonattainment area as the new or modified source.

(B) For new or modified sources locating within a designated maintenance area, the offset ratio is 1.1:1. These offsets may come from within either the designated area or the ozone precursor distance.

(C) For new or modified sources locating outside the designated area, but within the ozone precursor distance, the offset ratio is 1:1. These offsets may come from within either the designated area or the ozone precursor distance.

(D) Offsets from outside the designated area but within the Ozone Precursor Distance must be

from sources affecting the designated area in a comparable manner to the proposed emissions increase. Methods for determining offsets are described in the Ozone Precursor Offsets definition (OAR 340-225-0020(11)).

(c)) In lieu of obtaining offsets, the owner or operator may obtain an allocation at the rate of 1:1 from a growth allowance, if available, in an applicable maintenance plan.

(d) Sources within or affecting the Medford Ozone Maintenance Area are exempt from the requirement for NO_x offsets relating to ozone formation.

(e) Sources within or affecting the Salem Ozone Maintenance Area are exempt from the requirement for VOC and NO_x offsets relating to ozone formation.

(2) Non-Ozone areas (PM_{2.5}, PM₁₀, SO₂, CO, NO_x, and Lead emissions):

(a) For a source locating within a designated nonattainment area, the owner or operator must comply with paragraphs (A) through (E) of this subsection:

(A) Obtain offsets from within the same designated nonattainment area for the nonattainment pollutant(s);

(B) Except as provided in paragraphs (C) of this subsection, provide a minimum of 1:1 offsets for each nonattainment pollutant and precursor with emission increases over the Netting Basis;

(C)) For PM_{2.5}; inter-pollutant offsets are allowed as follows:

(i) 1 ton of direct PM_{2.5} may be used to offset 40 tons of SO₂;

(ii) 1 ton of direct PM_{2.5} may be used to offset 100 tons of NO_x;

(iii) 40 tons of SO₂ may be used to offset 1 ton of direct PM_{2.5};

(iv) tons of NO_x may be used to offset 1 ton of direct PM_{2.5}.

(D)) Except as provided in section (7) of this rule, provide a net air quality benefit within the designated nonattainment area. "Net Air Quality Benefit" means:

(i) Offsets obtained result in a reduction in concentration at a majority of the modeled receptors and the emission increases from the proposed source or modification will result in less than a significant impact level increase at all modeled receptors; or

(ii) For a small scale local energy project and any infrastructure related to that project located in the same area, a reduction of the nonattainment pollutant emissions equal to the ratio specified in this subsection, provided that the proposed major source or major modification would not cause or contribute to a violation of the national ambient air quality standard or otherwise pose a material threat to compliance with air quality standards in the nonattainment area.

(E) Provide offsets sufficient to demonstrate reasonable further progress toward achieving the NAAQS.

(b) For a source locating outside a designated nonattainment area but causing a significant air quality impact on the area, the owner or operator must provide offsets sufficient to reduce the modeled impacts below the significant air quality impact level (OAR 340-200-0020) at all

receptors within the designated nonattainment area. These offsets may come from within or outside the designated nonattainment area. This requirement only applies to the emissions remaining after first deducting the offsets obtained in accordance with section (7) of this rule.

(c)) For a source locating inside or causing a significant air quality impact on a designated maintenance area, the owner or operator must either provide offsets sufficient to reduce modeled impacts below the significant air quality impact level (OAR 340-200-0020) at all receptors within the designated maintenance area or obtain an allocation from an available growth allowance as allowed by an applicable maintenance plan. These offsets may come from within or outside the designated maintenance area. This requirement only applies to the emissions remaining after first deducting the offsets obtained in accordance with section (7) of this rule.

(A) Medford-Ashland AQMA: Proposed new major PM10 sources or major PM10 modifications locating within the AQMA that are required to provide emission offsets under OAR 340-224-0060(2)(a) must provide reductions in PM10 emissions equal to 1.2 times the emissions increase over the netting basis from the new or modified source, and must provide a net air quality benefit within the AQMA. "Net Air Quality Benefit" means:

(i) A reduction in concentration at a majority of the modeled receptors and less than a significant impact level increase at all modeled receptors; or

(ii) For a small scale local energy project and any infrastructure related to that project located in the same area, a reduction of the maintenance pollutant emissions equal to the ratio specified in this paragraph, provided that the proposed major source or major modification would not cause or contribute to a violation of the national ambient air quality standard or otherwise pose a material threat to compliance with air quality standards in the maintenance area.

(B) Medford-Ashland AQMA: Proposed new major PM10 sources or major PM10 modifications located outside the Medford-Ashland AQMA that cause a significant air quality impact on the AQMA must provide reductions in PM10 emissions sufficient to reduce modeled impacts below the significant air quality impact level (OAR 340-200-0020) at all receptors within the AQMA.

(3) Except as provided in paragraph (2)(a)(C) of this rule, the emission reductions used as offsets must be of the same type of pollutant as the emissions from the new source or modification. Sources of PM10 must be offset with particulate in the same size range.

(4) The emission reductions used as offsets must be contemporaneous, that is, the reductions must take effect before the time of startup but not more than two years before the submittal of a complete permit application for the new source or modification. This time limitation may be extended through banking, as provided for in OAR 340 division 268, Emission Reduction Credit Banking. In the case of replacement facilities, the DEQ may allow simultaneous operation of the old and new facilities during the startup period of the new facility, if net emissions are not increased during that time period. Any emission reductions must be federally enforceable at the time of the issuance of the permit.

(5) Offsets required under this rule must meet the requirements of Emissions Reduction Credits in OAR 340 division 268.

(6) Emission reductions used as offsets must be equivalent in terms of short term, seasonal, and yearly time periods to mitigate the effects of the proposed emissions.

(7) Offsets obtained in accordance with OAR 340-240-0550 and 340-240-0560 for sources locating within or causing significant air quality impact on the Klamath Falls PM2.5 nonattainment or PM10 maintenance areas are exempt from the requirements of paragraph

(2)(a)(E) and sub-sections 2(b) and 2(c) of this rule provided that the proposed major source or major modification would not cause or contribute to a new violation of the national ambient air quality standard. This exemption only applies to the direct PM_{2.5} or PM₁₀ offsets obtained from residential wood-fired devices in accordance with OAR 340-240-0550 and 340-240-0560. Any remaining emissions from the source that are offset by emission reductions from other sources are subject to the requirements of paragraph (2)(a)(E) or sub-sections (2)(b) or (2)(c) of this rule, as applicable.

(8) *State effective: 12/11/2012; EPA Effective: 8/25/2015; 80 FR 51470*

DIVISION 226

GENERAL EMISSION STANDARDS

340-226-0010 Definitions

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

(1) "New source" means, for purposes of OAR 340-226-0210, any air contaminant source installed, constructed, or modified after June 1, 1970.

(2) "Particulate matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method in accordance with OAR 340-212-0120 and 212-0140. Sources with exhaust gases at or near ambient conditions may be tested with DEQ Method 5 or DEQ Method 8, as approved by the Department. Direct heat transfer sources must be tested with DEQ Method 7; indirect heat transfer combustion sources and all other non-fugitive emissions sources not listed above must be tested with DEQ Method 5 or an equivalent method approved by the Department;

(3) "Refuse" means unwanted matter.

(4) "Refuse burning equipment" means a device designed to reduce the volume of solid, liquid, or gaseous refuse by combustion.

(5) "Standard conditions" means a temperature of 68° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

(6) "Standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from fuel or refuse burning, "standard cubic foot" also implies adjustment of gas volume to that which would result at a concentration of 12% carbon dioxide or 50% excess air.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

HIGHEST AND BEST PRACTICABLE TREATMENT AND CONTROL

340-226-0100 Policy and Application

(1) As specified in OAR 340-226-0110 through 340-226-0140 and sections (2) through (5) of this rule, the highest and best practicable treatment and control of air contaminant emissions must in every case be provided so as to maintain overall air quality at the highest possible levels, and to

maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. In the case of new sources of air contamination, particularly those located in areas with existing high air quality, the degree of treatment and control provided must be such that degradation of existing air quality is minimized to the greatest extent possible.

(2) A source is in compliance with section (1) of this rule if the source is in compliance with all other applicable emission standards and requirements contained in divisions 200 through 268 of this chapter.

(3) The Commission may adopt additional rules as necessary to ensure that the highest and best practicable treatment and control is provided as specified in section (1) of this rule. Such rules may include, but are not limited to, requirements:

(a) Applicable to a source category, pollutant or geographic area of the state;

(b) Necessary to protect public health and welfare for air contaminants that are not otherwise regulated by the Commission; or

(c) Necessary to address the cumulative impact of sources on air quality.

(4) The Commission encourages the owner or operator of a source to further reduce emissions from the source beyond applicable control requirements where feasible.

(5) Nothing in OAR 340-226-0100 through 340-226-0140 revokes or modifies any existing permit term or condition unless or until the Department revokes or modifies the term or condition by a permit revision.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-226-0110 Pollution Prevention

The owner and operator of a source are encouraged to take into account the overall impact of the control methods selected, considering risks to all environmental media and risks from all affected products and processes. The owner or operator of a source is encouraged, but not required, to use the following hierarchy in controlling air contaminant emissions:

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

(2) Capture and reuse air contaminants;

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

(4) Otherwise control emissions.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-226-0120 Operating and Maintenance Requirements

(1) Operational, Maintenance and Work Practice Requirements:

(a) Where the Department has determined that specific operational, maintenance, or work practice requirements are appropriate to ensure that the owner or operator of a source is operating and maintaining air pollution control equipment and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions, the Department will establish such requirements by permit condition or notice of construction approval;

(b) Operational, maintenance, and work practice requirements include:

(A) Flow rates, temperatures, and other physical or chemical parameters related to the operation of air pollution control equipment and emission reduction processes;

(B) Monitoring, record-keeping, testing, and sampling requirements and schedules;

(C) Maintenance requirements and schedules; and

(D) Requirements that components of air pollution control equipment be functioning properly.

(2) Emission Action Levels:

(a) Where the Department has determined that specific operational, maintenance, or work practice requirements considered or required under section (1) of this rule are insufficient to ensure that the owner or operator is operating and maintaining air pollution control equipment and emission reduction processes at the highest reasonable efficiency and effectiveness, the Department may establish, by permit or Notice of Construction approval, specific emission action levels in addition to applicable emission standards. An emission action level will be established that ensures an air pollution control equipment or emission reduction process is operated at the highest reasonable efficiency and effectiveness to minimize emissions;

(b) If emissions from a source equal or exceed the applicable emission action level, the owner or operator of the source must:

(A) Take corrective action as expeditiously as practical to reduce emissions to below the emission action level;

(B) Maintain records at the plant site for two years which document the exceedance, the cause of the exceedance, and the corrective action taken;

(C) Make such records available for inspection by the Department during normal business hours; and

(D) Submit such records to the Department upon request.

(c) The Department will revise an emission action level if it finds that such level does not reflect the highest reasonable efficiency and effectiveness of air pollution control equipment and emission reduction processes;

(d) An exceedance of an emission action level that is more stringent than an applicable emission standard is not a violation of such emission standard.

(3) In determining the highest reasonable efficiency and effectiveness for purposes of this rule, the Department considers operational variability and the capability of air pollution control equipment and emission reduction processes. If the performance of air pollution control equipment and emission reduction processes during start-up or shut-down differs from the performance under normal operating conditions, the Department determines the highest reasonable efficiency and effectiveness separately for these operating modes.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

(1) Existing Sources. An existing emissions unit must meet TACT for existing sources if:

(a) The emissions unit is not already subject to emission standards under OAR 340-232-0010 through 340-232-0240, OAR 340 Divisions 230, 234, 236, or 238, OAR 340-240-0110 through 340-240-0180, 340-240-0310(1), OAR 340-240-0320 through 340-240-0430, or OAR 340 Division 224 for the pollutant emitted;

(b) The source is required to have a permit;

(c) The emissions unit has emissions of criteria pollutants equal to or greater than 5 tons per year of particulate or 10 tons per year of any gaseous pollutant; and

(d) The Department determines that air pollution control equipment and emission reduction processes in use for the emissions unit do not represent TACT, and that further emission control is necessary to address documented nuisance conditions, address an increase in emissions, ensure that the source is in compliance with other applicable requirements, or protect public health or welfare or the environment.

(2) New and Modified Sources. A new or modified emissions unit must meet TACT for new or modified sources if:

(a) The new or modified emissions unit is not subject to New Source Review requirements in OAR 340 division 224, an applicable Standard of Performance for New Stationary Sources in OAR 340 division 238, OAR 340-240-0110 through 340-240-0180, 340-240-0310(1), OAR 340-240-320 through 340-240-0430, or any other standard applicable only to new or modified sources in OAR 340 divisions 230, 234, 236, or 238 for the pollutant emitted;

(b) The source is required to have a permit;

(c) The emissions unit:

(A) If new, would have emissions of any criteria pollutant equal to or greater than 1 ton per year in any area, or of PM₁₀ equal to or greater than 500 pounds per year in a PM₁₀ nonattainment area; or

(B) If modified, would have an increase in emissions from the permitted level for the emissions unit of any criteria pollutant equal to or greater than 1 ton per year in any area, or of PM₁₀ equal to or greater than 500 pounds per year in a PM₁₀ nonattainment area; and

(d) The Department determines that the proposed air pollution control equipment and emission reduction processes do not represent TACT.

(3) Before making a TACT determination, the Department will notify the owner or operator of a source that it intends to make such a determination using information known to the Department. The owner or operator of the source may supply the Department with additional information by a reasonable date set by the Department.

(4) The owner or operator of a source subject to TACT must submit, by a reasonable date established by the Department, compliance plans and specifications for the Department's approval. The owner or operator of the source must demonstrate compliance in accordance with a method and compliance schedule approved by the Department.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-226-0140 Additional Control Requirements for Stationary Sources of Air Contaminants

In addition to other applicable requirements, the Department may establish control requirements by permit if necessary as specified in sections (1) through (5) of this rule:

(1) Requirements will be established to prevent violation of an Ambient Air Quality Standard caused or projected to be caused substantially by emissions from the source as determined by modeling, monitoring, or a combination thereof. For existing sources, the Department will conduct monitoring to confirm a violation of an Ambient Air Quality Standard .

(2) Requirements will be established to prevent significant impairment of visibility in Class I areas caused or projected to be caused substantially by a source as determined by modeling, monitoring, or a combination thereof. For existing sources, the Department will conduct monitoring to confirm visibility impairment.

(3) A requirement applicable to a major source will be established if it has been adopted by EPA but has not otherwise been adopted by the Commission.

(4) An additional control requirement will be established if requested by the owner or operator of a source.

(5) Requirements will be established if necessary to protect public health or welfare for the following air contaminants and sources not otherwise regulated under chapter 340, divisions 20 through 32:

(a) Chemical weapons; and

(b) Combustion and degradation by-products of chemical weapons.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

GRAIN LOADING STANDARDS

340-226-0200 Applicability

OAR 340-226-0200 through 340-226-0210 apply in all areas of the state.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-226-0210 Particulate Emission Limitations for Sources Other Than Fuel Burning and Refuse Burning Equipment

(1) No person may cause, suffer, allow, or permit particulate matter emission from any air contaminant source in excess of:

(a) 0.2 grains per standard cubic foot for existing sources, or

(b) 0.1 grains per standard cubic foot for new sources.

(2) This rule does not apply to fuel or refuse burning equipment or to fugitive emissions.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

PARTICULATE EMISSIONS FROM PROCESS EQUIPMENT

340-226-0300 Applicability

OAR 340-226-0300 through 340-226-0320 apply to all non-fugitive emissions from the following process equipment:

- (1) Inertial separators without baghouses;
 - (2) Calciners;
 - (3) Material dryers;
 - (4) Material classifiers;
 - (5) Conveyors;
 - (6) Size reduction equipment;
 - (7) Material storage structures;
 - (8) Seed cleaning devices; and
 - (9) Equipment other than that for which specific emission standards have been adopted.
- State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891*

340-226-0310 Emission Standard

No person may cause, suffer, allow, or permit the emissions of particulate matter in any one hour from any process in excess of the amount shown in **Table 1**, for the process weight rate allocated to such process.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

Table 1 (340-226-0310)
Particulate Matter Emissions Standards for Process Equipment

Process Lbs/Hr	Emission Lbs/Hr	Process Lbs/Hr	Emissions Lbs/Hr	Process Lbs/Hr	Emissions Lbs/Hr
50					
0.24					
2300					
4.44					
7500					
8.39					
100					
0.46					
2400					
4.55					
8000					
8.71					
150					
0.66					
2500					
4.64					
8500					
9.03					
200					
0.85					
2600					

4.74
9000
9.36



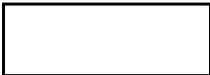
250
1.03
2700
4.84
9500
9.67



300
1.20
2800
4.92
10000
10.00



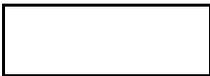
350
1.35
2900
5.02
11000
10.63



400
1.50
3000
5.10
12000
11.28



450
1.63
3100
5.18
13000
11.89



500
1.77
3200
5.27
14000
12.50



550
1.89
3300
5.36
15000
13.13



600
2.01
3400
5.44
16000
13.74



650
2.12
3500
5.52
17000
14.36



700
2.24
3600
5.61
18000
14.97



750
2.34
3700
5.69
19000
15.58



800
2.43
3800
5.77
20000
16.19



850
2.53
3900
5.85
30000
22.22



900
2.62
4000
5.93
40000
28.30



950
2.72

4100
6.01
50000
34.30

1000
2.80
4200
6.08
60000
40.00

1100
2.97
4300
6.15
70000
41.30

1200
3.12
4400
6.22
80000
42.50

1300
3.26
4500
6.30
90000
43.60

1400
3.40
4600
6.37
10000
44.60

1500
3.54
4700
6.45
120000
46.30

1600
3.66
4800
6.52
140000
47.80

1700
3.79
4900
6.60
160000
49.00

1800
3.91
5000
6.67
200000
51.20

1900
4.03
5500
7.03
1000000
69.00

2000
4.14
6000
7.37
2000000
77.60

2100
4.24
6500
7.71
6000000
92.70

2200
4.34
7000
8.05

Interpolation and extrapolation of the data for process unit weight rates in excess of 60,000 lb/hr shall be accomplished by the use of the equation: $E = 55.0P^{0.11} - 40$, where E - rate of process unit emission in lb/hr and P = process weight in tons/hr.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-226-0320 Determination of Process Weight

(1) Process weight is the total weight of all materials introduced into a piece of process equipment.

Solid fuels charged are considered part of the process weight, but liquid and gaseous fuels and combustion air are not.

(a) For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation, excluding any time during which the equipment is idle.

(b) For a continuous operation, the process weight per hour is derived by dividing the process weight by a typical period of time, as approved by the Department.

(2) Where the nature of any process or operation or the design of any equipment permits more than one interpretation of this rule, the interpretation that results in the minimum value for allowable emission applies.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

ALTERNATIVE EMISSION CONTROLS

340-226-0400 Alternative Emission Controls (Bubble)

(1) Alternative emission controls for VOC and NO_x emissions may be approved in a Standard ACDP or Oregon Title V Operating Permit for use within a single source such that a specific emission limit is exceeded, provided that:

(a) Such alternatives are not specifically prohibited by a rule or permit condition.

(b) Net emissions for each pollutant are not increased above the PSEL.

(c) The net air quality impact is not increased as demonstrated by procedures required by OAR 340-224-0090, Requirements for Net Air Quality Benefit.

(d) No other pollutants including malodorous, toxic or hazardous pollutants are substituted.

(e) BACT and LAER, where required by a previously issued permit pursuant to OAR 340 division 224, NSPS (OAR 340 division 238), and NESHAP (OAR 340 division 244), where required, are not relaxed.

(f) Specific emission limits are established for each emission unit involved such that compliance with the PSEL can be readily determined.

(g) Application is made for a permit modification and such modification is approved by the Department.

(h) The reducing emission source reduces its allowable emission rate. Merely reducing production, throughput, or hours of operation is insufficient.

(2) Total emissions from the emission sources under the bubble will be established in the permit.

(3) Alternative emission controls, in addition to those allowed in (1) above, may be approved by the Department and EPA as a source specific SIP amendment.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

DIVISION 228

REQUIREMENTS FOR FUEL BURNING EQUIPMENT AND FUEL SULFUR CONTENT

340-228-0010 Applicability

This division applies in all areas of the state.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-228-0020 Definitions

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

- (1) "ASTM" means the American Society for Testing and Materials.
- (2) "Coastal Areas" means Clatsop, Tillamook, Lincoln, Coos, and Curry Counties and those portions of Douglas and Lane County west of Range 8 West, Willamette Meridian.
- (3) "Distillate Fuel Oil" means any oil meeting the specifications of ASTM Grade 1 or 2 fuel oils;
- (4) "Fuel burning equipment" means equipment, other than internal combustion engines, the principal purpose of which is to produce heat or power by indirect heat transfer.
- (5) "Residual Fuel Oil" means any oil meeting the specifications of ASTM Grade 4, 5, or 6 fuel oils.
- (6) "Standard conditions" means a temperature of 68° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.
- (7) "Standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from fuel or refuse burning, "standard cubic foot" also implies adjustment of gas volume to that which would result at a concentration of 12% carbon dioxide or 50% excess air.

State effective: 5/17/2012; EPA effective: 7/22/2013; 78 FR 37124

SULFUR CONTENT OF FUELS

340-228-0100 RESIDUAL FUEL OILS

No person shall sell, distribute, use, or make available for use, any residual fuel oil containing more than 1.75 percent sulfur by weight.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-228-0110 DISTILLATE FUEL OILS

No person shall sell, distribute, use, or make available for use, any distillate fuel oil containing more than the following percentages of sulfur:

- (1) ASTM Grade 1 fuel oil — 0.3 percent by weight.

(2) ASTM Grade 2 fuel oil — 0.5 percent by weight.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-228-0120 COAL

(1) Except as provided in section (2) of this rule, no person shall sell, distribute, use, or make available for use, any coal containing greater than 1.0 percent sulfur by weight.

(2) Except as provided for in sections (4) and (5) of this rule, no person shall sell, distribute, use or make available for use any coal or coal containing fuel with greater than 0.3 percent sulfur and five percent volatile matter as defined in **ASTM Method D3175** for direct space heating within the Portland, Salem, Eugene-Springfield, and Medford-Ashland Air Quality Maintenance Areas. For coals subjected to a devolatilization process, compliance with the sulfur limit may be demonstrated on the sulfur content of coal prior to the devolatilization process.

(3) Distributors of coal or coal containing fuel destined for direct residential space heating use shall keep records for a five year period which shall be available for DEQ inspection and which:

(a) Specify quantities of coal or coal containing fuels sold;

(b) Contain name and address of customers who are sold coal or coal containing fuels;

(c) Specify the sulfur and volatile content of coal or the coal containing fuel sold to residences in the Portland, Salem, Eugene-Springfield, and Medford-Ashland Air Quality Maintenance Areas.

(4) Users of coal for direct residential space heating in 1980 who apply in writing by July 1, 1983 and receive written approval from the Department shall be exempted from the requirement of section (2) of this rule provided they certify that they used more than one-half ton of coal in 1980.

(5) Distributors may sell coal not meeting specification in section (2) of this rule to those users who have applied for and received the exemption provided for in section (4) of this rule.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-228-0130 EXEMPTIONS

Exempted from the requirements of OAR 340-228-0100- through 340-228-0120 are:

(1) Fuels used exclusively for the propulsion and auxiliary power requirements of vessels, railroad locomotives, and diesel motor vehicles.

(2) With prior approval of the Department of Environmental Quality, fuels used in such a manner or control provided such that sulfur dioxide emissions can be demonstrated to be equal to or less than those resulting from the combustion of fuels complying with the limitations of OAR 340-228-0100 through 340-228-0120.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

GENERAL EMISSION STANDARDS FOR FUEL BURNING EQUIPMENT

340-228-0200 Sulfur Dioxide Standards

The following emission standards are applicable to sources installed, constructed, or modified after January 1, 1972 only:

(1) For fuel burning equipment having a heat input capacity between 150 million BTU per hour and 250 million BTU, no person may cause, suffer, allow, or permit the emission into the atmosphere of sulfur dioxide in excess of:

(a) 1.4 lb. per million BTU heat input, maximum three-hour average, when liquid fuel is burned;

(b) 1.6 lb. per million BTU heat input, maximum three-hour average, when solid fuel is burned.

(2) For fuel burning equipment having a heat input capacity of more than 250 million BTU per hour, no person may cause, suffer, allow, or permit the emission into the atmosphere of sulfur dioxide in excess of:

(a) 0.8 lb. per million BTU heat input, maximum three-hour average, when liquid fuel is burned;

(b) 1.2 lb. per million BTU heat input, maximum three-hour average, when solid fuel is burned.

State effective: 5/17/2012; EPA effective: 7/22/2013; 78 FR 37124

340-228-0210 Grain Loading Standards

(1) Except as provided in sections (2) and (3) of this rule, no person shall cause, suffer, allow, or permit the emission of particulate matter, from any fuel burning equipment in excess of:

(a) 0.2 grains per standard cubic foot for sources installed, constructed, or modified on or before June 1, 1970;

(b) 0.1 grains per standard cubic foot for sources installed, constructed, or modified after June 1, 1970.

(2) For sources burning salt laden wood waste on July 1, 1981, where salt in the fuel is the only reason for failure to comply with the above limits and when the salt in the fuel results from storage or transportation of logs in salt water, the resulting salt portion of the emissions shall be exempted from subsection (1)(a) or (b) of this rule and OAR 340-208-0110. In no case shall sources burning salt laden woodwaste exceed 0.6 grains per standard cubic foot.

(a) This exemption and the alternative emissions standard are only applicable upon prior notice to the Department.

(b) Sources which utilize this exemption, to demonstrate compliance otherwise with subsection (1)(a) or (b) of this rule, shall submit the results of a particulate emissions source test of the boiler stacks biannually.

(3) This rule does not apply to solid fuel burning devices that have been certified under OAR 340-262-0500.

State effective: 5/17/2012; EPA effective: 7/22/2013; 78 FR 37124

DIVISION 232

EMISSION STANDARDS FOR VOC POINT SOURCES

340-232-0010 Introduction

(1) This division regulates sources of VOC which contribute to the formation of photochemical oxidant, mainly ozone.

(2) Since ozone standards are not violated in Oregon from October through April (because of insufficient solar energy), natural gas-fired afterburners may be permitted, on a case-by-case basis, to lay idle during the winter months.

(3) Sources regulated by this division are new and existing sources in the Portland and Medford AQMA's and in the Salem SKATS listed in subsections (a) through (m) of this section, including:

- (a) Gasoline dispensing facilities, storage tank filling;
- (b) Bulk gasoline plants and delivery vessels;
- (c) Bulk gasoline terminal loading;
- (d) Cutback asphalt;
- (e) Petroleum refineries, petroleum refinery leaks;
- (f) VOC liquid storage, secondary seals;
- (g) Coating including paper coating and miscellaneous painting;
- (h) Aerospace component coating;
- (i) Degreasers;
- (j) Asphaltic and coal tar pitch in roofing;
- (k) Flat wood coating;
- (l) Rotogravure and Flexographic printing;
- (m) Automotive Gasoline.

(4) Emissions units not covered by the source categories listed in section (3) of this rule which emit or have the potential to emit over 100 tons of VOC per year are subject to OAR 340-232-0040.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

340-232-0020 Applicability

(1) Notwithstanding the emission limitations in OAR 340 this division, all new major sources or major modifications at existing sources, located within the areas cited in section (2) of this rule, shall comply with OAR 340 division 224 (New Source Review).

(2) All new and existing sources inside the following areas shall comply with the General Emission Standards for Volatile Organic Compounds:

- (a) Portland-Vancouver Air Quality Maintenance Area;

(b) Medford-Ashland Air Quality Maintenance Area;

(c) Salem-Keizer Area Transportation Study (SKATS) Area.

(3) VOC sources located outside the areas cited in section (2) of this rule are exempt from the General Emission standards for Volatile Organic Compounds.

(4) All new and existing sources in the areas identified in section (2) of this rule shall apply Reasonably Available Control Technology (RACT) subject to the categorical RACT requirements set forth in this division. Compliance with the requirements in this division shall be presumed to satisfy the RACT requirement.

State effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-232-0030 Definitions

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

(1) "Aerospace component" means the fabricated part, assembly of parts, or completed unit of any aircraft, helicopter, missile or space vehicle.

(2) "Air dried coating" means coatings which are dried by the use of air at ambient temperature.

(3) "Applicator" means a device used in a coating line to apply coating.

(4) "Bulk gasoline plant" means a gasoline storage and distribution facility which receives gasoline from bulk terminals by railroad car or trailer transport, stores it in tanks, and subsequently dispenses it via account trucks to local farms, businesses, and gasoline dispensing facilities.

(5) "Bulk gasoline terminal" means a gasoline storage facility which receives gasoline from refineries primarily by pipeline, ship, or barge, and delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by tank truck.

(6) "Can coating" means any coating applied by spray, roller, or other means to the inside and/or outside surfaces of metal cans, drums, pails, or lids.

(7) "Carbon bed breakthrough" means the initial indication of depleted adsorption capacity characterized by a sudden measurable increase in VOC concentration exiting a carbon adsorption bed or column.

(8) "Certified storage device" means vapor recovery equipment for gasoline storage tanks as certified by the State of California Air Resources Board Executive Orders, copies of which are on file with the Department, or which has been certified by other air pollution control agencies and approved by the Department.

(9) "Class II hardboard paneling finish" means finishers which meet the specifications of Voluntary Product Standard PS-59-73 as approved by the American National Standards Institute.

(10) "Clear coat" means a coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color.

- (11) "Coating" means a material applied to a surface which forms a continuous film and is used for protective and/or decorative purposes.
- (12) "Coating line" means one or more apparatus or operations which include a coating applicator, flash-off area, and oven or drying station wherein a surface coating is applied, dried, and/or cured.
- (13) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.
- (14) "Crude oil" means a naturally occurring mixture which consists of hydrocarbons and/or sulfur, nitrogen, and/or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.
- (15) "Custody transfer" means the transfer of produced petroleum and/or condensate after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.
- (16) "Cutback asphalt" means a mixture of a base asphalt with a solvent such as gasoline, naphtha, or kerosene. Cutback asphalts are rapid, medium, or slow curing (known as RC, MC, SC), as defined in **ASTM D2399**.
- (17) "Day" means a 24-hour period beginning at midnight.
- (18) "Delivery vessel" means any tank truck or trailer used for the transport of gasoline from sources of supply to stationary storage tanks.
- (19) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation.
- (20) "External floating roof" means a cover over an open top storage tank consisting of a double deck or pontoon single deck which rests upon and is supported by the volatile organic liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.
- (21) "Extreme performance coatings" means coatings designed for extreme environmental conditions such as exposure to any one of the following: continuous ambient weather conditions, temperature consistently above 95°C, detergents, abrasive and scouring agents, solvents, corrosive atmosphere, or similar environmental conditions.
- (22) "Extreme performance interior topcoat" means a topcoat used in interior spaces of aircraft areas requiring a fluid, stain or nicotine barrier.
- (23) "Fabric coating" means any coating applied on textile fabric. Fabric coating includes the application of coatings by impregnation.
- (24) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.
- (25) "Freeboard ratio" means the freeboard height divided by the width (not length) of the degreaser's air/solvent area.

- (26) "Forced air dried coating" means a coating which is dried by the use of warm air at temperatures up to 90°C (194°F).
- (27) "Gas Freed" means a marine vessel's cargo tank has been certified by a Marine Chemist as "Safe for Workers" according to the requirements outlined in the National Fire Protection Association Rule 306.
- (28) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 27.6 kPa (4.0 psi) or greater which is used to fuel internal combustion engines.
- (29) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle, boat, or airplane gasoline tanks from stationary storage tanks.
- (30) "Gas service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the gaseous phase.
- (31) "Hardboard" is a panel manufactured primarily from inter-felted ligno-cellulosic fibers which are consolidated under heat and pressure in a hot press.
- (32) "Hardwood plywood" is plywood whose surface layer is a veneer of hardwood.
- (33) "High performance architectural coating" means coatings applied to aluminum panels and moldings being coated away from the place of installation.
- (34) "Internal floating roof" means a cover or roof in a fixed roof tank which rests upon or is floating upon the petroleum liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.
- (35) "Large appliance" means any residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dish washers, trash compactors, air conditioners, and other similar products.
- (36) "Leaking component" means any petroleum refinery source which has a volatile organic compound concentration exceeding 10,000 parts per million (ppm) when tested in the manner described in method 31 and 33 on file with the Department. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open-ended pipes. Excluded from these sources are valves which are not externally regulated.
- (37) "Lightering" means the transfer of fuel product into a cargo tank from one marine tank vessel to another.
- (38) "Liquid-mounted" means a primary seal mounted so the bottom of the seal covers the liquid surface between the tank shell and the floating roof.
- (39) "Liquid service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the liquid phase.
- (40) "Loading event" means the loading or lightering of gasoline into a marine tank vessel's cargo tank, or the loading of any product into a marine tank vessel's cargo tank where the prior cargo was gasoline. The event begins with the connection of a marine tank vessel to a storage or cargo tank by means of piping or hoses for the transfer of a fuel product from the storage or cargo tank(s) into

the receiving marine tank vessel. The event ends with disconnection of the pipes and/or hoses upon completion of the loading process.

(41) "Low solvent coating" means a coating which contains a lower amount of volatile organic compound than conventional organic solvent borne coatings. Low solvent coatings include waterborne, higher solids, electrodeposition and powder coatings.

(42) "Major modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase for any pollutant subject to regulation under the Clean Air Act.

(43) "Major source" means a stationary source which emits or has the potential to emit any pollutant regulated under the Clean Air Act at a significant emission rate.

(44) "Marine Tank Vessel" means any marine vessel constructed or converted to carry liquid bulk cargo that transports gasoline.

(45) "Marine Terminal" means any facility or structure used to load or unload any fuel product cargo into or from marine tank vessels.

(46) "Marine Vessel" means any tugboat, tanker, freighter, passenger ship, barge or other boat, ship or watercraft.

(47) "Maskant for chemical processing" means a coating applied directly to an aerospace component to protect surface areas when chemical milling, anodizing, aging, bonding, plating, etching and/or performing other chemical operations on the surface of the component.

(48) "Miscellaneous metal parts and products" means any metal part or metal product, even if attached to or combined with a nonmetal part or product, except cans, coils, metal furniture, large appliances, magnet wires, automobiles, ships, and airplane bodies.

(49) "Natural finish hardwood plywood panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

(50) "Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.

(51) "Oven-dried" means a coating or ink which is dried, baked, cured, or polymerized at temperatures over 90°C (194°F).

(52) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(53) "Paper coating" means any coating applied on paper, plastic film, or metallic foil to make certain products, including (but not limited to) adhesive tapes and labels, book covers, post cards, office copier paper, drafting paper, or pressure sensitive tapes. Paper coating includes the application of coatings by impregnation and/or saturation.

(54) "Person" means the federal government, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.

(55) "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of petroleum, crude oil, or through redistillation, cracking, or reforming of unfinished petroleum derivatives. "Petroleum refinery" does not mean a re-refinery of used motor oils or other waste chemicals. "Petroleum refinery" does not include asphalt blowing or separation of products shipped together.

(56) "Plant site basis" means all of the sources on the premises (contiguous land) covered in one Air Contaminant Discharge Permit unless another definition is specified in a Permit.

(57) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitations on the capacity of a source to emit an air pollutant, excluding air pollution control equipment, shall be treated as part of its design if the limitation is enforceable by the Department.

(58) "Pretreatment wash primer" means a coating which contains a minimum of 0.5% acid by weight for surface etching and is applied directly to bare metal surfaces to provide corrosion resistance and adhesion.

(59) "Printed interior panels" means panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.

(60) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage.

(61) "Prime coat" means the first of two or more films of coating applied in an operation.

(62) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(63) "Reasonably available control technology" or "RACT" means the lowest emission limitation that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

(64) "Roll printing" means the application of words, designs and pictures to a substrate by means of hard rubber or steel rolls.

(65) "Sealant" means a coating applied for the purpose of filling voids and providing a barrier against penetration of water, fuel or other fluids or vapors.

(66) "Specialty printing" means all gravure and flexographic operations which print a design or image, excluding publication gravure and packaging printing. Specialty Printing includes printing on paper plates and cups, patterned gift wrap, wallpaper, and floor coverings.

(67) "Splash filling" means the filling of a delivery vessel or stationary storage tanks through a pipe or hose whose discharge opening is above the surface level of the liquid in the tank being filled.

(68) "Source" means any building, structure facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and is located on one or more

contiguous or adjacent properties and is owned or operated by the same person or by persons under common control.

(69) "Source category" means all sources of the same type or classification.

(70) "Submerged fill" means any fill pipe or hose, the discharge opening of which is entirely submerged when the liquid is 6 inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe, the discharge of which is entirely submerged when the liquid level is 18 inches, or is twice the diameter of the fill pipe, whichever is greater, above the bottom of the tank.

(71) "Thin particleboard" means a manufactured board 1/4 inch or less in thickness made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure.

(72) "Thirty-day rolling average" means any value arithmetically averaged over any consecutive thirty days.

(73) "Tileboard" means paneling that has a colored waterproof surface coating.

(74) "Topcoat" means a coating applied over a primer or intermediate coating for purposes such as appearance, identification or protection.

(75) "True vapor pressure" means the equilibrium pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks," February, 1980.

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

(77) "Vapor-mounted" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the primary seal, the tank shell, the liquid surface, and the floating roof.

(78) "Vapor Tight" means, as used in OAR 340-232-0110, a condition that exists when the concentration of a volatile organic compound, measured one centimeter from any source, does

State effective: 12/26/2001; EPA effective: 10/3/2005; 70 FR 44481

340-232-0040 General Non-Categorical Requirements

(1) All existing sources, operating prior to November 15, 1990, located inside the areas cited in OAR 340-232-0020(2)(a) or (2)(c), containing emissions units or devices for which no categorical RACT requirements exist and which have potential emissions before add-on controls of over 100 tons per year (TPY) of VOC from aggregated, non-regulated emission units, shall have RACT requirements developed on a case-by-case basis by the Department. Sources that have complied with New Source Review requirements per OAR 340 division 224 and are subject to Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) requirements are presumed to have met RACT requirements. A source may request RACT not be applied by demonstrating to the Department that their potential emissions before add-on controls are below 100 tons per year. Once a source becomes subject to RACT requirements under this section, it shall continue to be subject to RACT, unless VOC emissions fall below 100 tons per year and the source requests that RACT be removed, by demonstrating to the Department that their

potential VOC emissions before add-on controls are below 100 tons per year.

(2) Within 3 months of written notification by the Department of the applicability of this rule, or, for good cause shown, up to an additional three months as approved by the Department, the source shall submit to the Department a complete analysis of RACT for each category of emissions unit at the source, taking into account technical and economic feasibility of available control technology, and the emission reductions each technology would provide. This analysis does not need to include any emissions units subject to a specific categorical RACT requirement under this division. These RACT requirements approved by the Department shall be incorporated in the source's Air Contaminant Discharge Permit, and shall not become effective until approved by EPA as a source specific SIP revision. The source shall have one year from the date of notification by the Department of EPA approval to comply with the applicable RACT requirements.

(3) Failure by a source to submit a RACT analysis required by section (2) of this rule shall not relieve the source of complying with a RACT determination established by the Department.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0050 Exemptions

Natural gas-fired afterburners needed to comply with this division shall be operated during the months of May, June, July, August, and September. During other months, the afterburners may be turned off with prior written Departmental approval, provided that the operation of such devices is not required for purposes of occupational health or safety, or for the control of toxic substances, malodors, or other regulated pollutants, or for complying with visual air contaminant limitations.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0060 Compliance Determination

(1) Certification and test procedures required by this division shall be conducted in accordance with the Department's **Source Sampling Manual**. Applicants are encouraged to submit designs approved by other air pollution control agencies where VOC control equipment has been developed. Construction approvals and proof of compliance will, in most cases, be based on Departmental evaluation of the source and controls.

(2) Approval by the Department of alternative methods for demonstrating compliance where specified and allowed in this division, including approval of equivalent testing methods for determining compliance, shall be subject to review and approval by EPA.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0070 Gasoline Dispensing Facilities GASOLINE DISPENSING FACILITIES

(1) No person may transfer or cause or allow the transfer of gasoline from any delivery vessel which was filled at a Bulk Gasoline Terminal into any gasoline dispensing facility tank of less than 40,000 gallon capacity unless:

(a) The tank is filled by submerged fill;

(b) A vapor balance system is used which consists of a certified gasoline storage tank device capable of collecting the vapor from volatile organic liquids and gases so as to prevent their emission to the outdoor atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

(c) The vapors are processed by a system demonstrated to the satisfaction of the Department to be

of equal effectiveness; and

(d) All equipment associated with the vapor balance system shall be maintained to be vapor tight and in good working order. No gasoline delivery shall take place unless the vapor return hose is connected by the delivery truck operator, if required by subsection (b) of this section.

(2) Exemptions and Limitations:

(a) All existing storage tanks at gasoline dispensing facilities with a rated capacity of 1,500 gallons or less are exempt from the submerged fill and vapor balance system requirements in section (1) of this rule;

(b) All new gasoline storage tanks with a rated capacity of 1500 gallons or less are exempt from the vapor balance system requirement in subsection (1)(b) of this rule;

(c) All new gasoline storage tanks of any capacity, installed after the effective date of this rule, shall have a submerged fill-tube system;

(d) Transfers made to storage tanks of gasoline dispensing facilities equipped with floating roofs or their equivalent shall be exempt from subsections 1(a) and 1(b) of this rule.

(3) Compliance with subsection (1)(b) of this rule shall be determined by verifications of use of equipment identical to equipment most recently approved and listed for such use by the Department or by testing in accordance with Method 30 on file with the Department.

(4) All persons subject to OAR 340-232-0010 and this rule shall obtain and maintain a current vapor balance system permit from the Department:

(a) All persons applying for this permit for any time period beginning after December 31, 1999 shall be subject to a biennial fee of \$100;

(b) The Department may issue vapor balance permits for up to 10 years;

(c) Persons applying for a new permit with an effective date beginning before December 31, 1999 or in an odd numbered year shall pay the annual fee of \$50 and then will be billed for the biennial fee for the next biennial period;

(d) Fees shall be paid at the time of application and by December 1 in odd numbered years for the next biennial period.

(5) When a facility changes ownership, the new owner shall obtain a new vapor balance system permit, as described in section (4) of this rule above, within 60 days of the change of ownership.

(6) No person shall cause or allow the installation of non-certified gasoline storage tank device equipment at any gasoline dispensing facility where a vapor balance system is required.

(7) Persons subject to this rule shall apply for a renewal vapor balance system permit not less than 60 days prior to the expiration date of the existing permit. The biennial fee shall be included with the application for renewal.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

(1) No person shall transfer or allow the transfer of gasoline to or from a bulk gasoline plant unless:

(a) Each stationary storage tank uses submerged fill when transferring gasoline; and

(b) The displaced vapors from filling each tank are prevented from being released to the atmosphere through use of a vapor tight vapor balance system, or equivalent system as approved in writing by the Department. All equipment associated with the vapor balance system shall be maintained to be vapor tight and in good working order.

(2) Each stationary gasoline storage tank may release vapor to the atmosphere through a pressure relief valve set to release at the highest possible pressure in accordance with state or local fire codes, or the National Fire Prevention Association guidelines and no less than 3.4 kPa (0.50 psi) or some other setting approved in writing by the Department.

(3) Gasoline shall be handled in a manner to prevent spillage, discharging into sewers, storage in open containers, or handled in any other manner that would result in evaporation. If more than five gallons are spilled, the operator shall report the spillage in accordance with OAR 340-214-0300 to 340-214-0350.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0085 Gasoline Delivery Vessel(s)

(1) No person shall transfer or allow the transfer of gasoline to a delivery vessel from a bulk gasoline terminal; or a bulk gasoline plant, with a daily throughput of 4,000 or more gallons based on a 30 day-rolling average, located in the Portland-Vancouver AQMA, unless:

(a) Each delivery vessel uses submerged fill when receiving gasoline; and

(b) The displaced vapors from filling each tank are prevented from being released to the atmosphere through use of a vapor tight vapor balance system, or equivalent system as approved in writing by the Department. All equipment associated with the vapor balance system shall be maintained to be vapor tight and in good working order.

(2) No person shall transfer or allow the transfer of gasoline from a delivery vessel, which was filled at a bulk gasoline terminal; or a bulk gasoline plant, with a daily throughput of 4,000 or more gallons based on a 30-day rolling average, located within the Portland-Vancouver AQMA; to a new or existing gasoline dispensing facility tank with a capacity of 1,500 gallons or more, unless:

(a) Each gasoline dispensing facility tank uses submerged fill when receiving gasoline; and

(b) The displaced vapors from filling each tank are prevented from being released to the atmosphere through use of a vapor tight vapor balance system, or equivalent system as approved in writing by the Department. All equipment associated with the vapor balance system shall be maintained to be vapor tight and in good working order.

(3) No person shall transfer or allow the transfer of gasoline from a delivery vessel to a new gasoline dispensing facility tank unless the gasoline dispensing facility tank uses submerged fill when receiving gasoline.

(4) Gasoline shall be handled in a manner to prevent spillage, discharge into sewers, storage in open containers, or handled in any other manner that would result in evaporation. If more than five gallons are spilled, the operator shall report the spillage in accordance with OAR 340-214-0300 to

340-214-0350.

(5) Compliance with subsection (1)(a) and (2)(a) of this rule shall be determined by visual inspection to ensure minimal spillage of gasoline and proper installation of bottom loading couples.

(6) Compliance with subsection (1)(b) and (2)(b) of this rule shall be determined by verification of use of equipment approved by the Department and/or by testing and monitoring in accordance with applicable portions of OAR 340232-0100 and/or Method 31 and/or 32 on file with the Department.

(7) The owner or operator of a gasoline delivery vessel shall maintain the vessel to be vapor tight at all times, in accordance with OAR 340-232-0100(1), if such vessel is part of a vapor balance system required by subsection (1)(b) or (2)(b) of this rule.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0090 Bulk Gasoline Terminals

(1) No terminal owner or operator, shall allow volatile organic compounds (VOC) to be emitted into the atmosphere in excess of 80 milligrams of VOC per liter of gasoline loaded from the operation of loading truck tanks, and truck trailers at bulk gasoline terminals with a daily throughputs of greater than 76,000 liters (20,000 gallons) per day of gasoline (determined by a thirty-day rolling average):

(a) The owner or operator of a gasoline loading terminal shall only allow the transfer of gasoline between the facility and a truck tank or a truck trailer when a current leak test certification for the delivery vessel is on file with the terminal or a valid permit as required by OAR 340-232-0100(1)(c) is displayed on the delivery vessel;

(b) The owner or operator of a truck tank or a truck trailer shall not make any connection to the terminal's gasoline loading rack unless the gasoline delivery vessel has been tested in accordance with OAR 340-232-0100(1);

(c) The truck driver or other operator who fills a delivery truck tank and/or trailer tank shall not take on a load of gasoline unless the vapor return hose is properly connected;

(d) All equipment associated with the vapor balance system shall be maintained to be vapor tight and in good working order.

(2) Compliance with section (1) of this rule shall be determined by testing in accordance with Method 33 on file with the Department. The method for determining compliance with section (1) of this rule are delineated in **40 CFR Part 60, Subpart XX, §60.503**.

(3) Bulk Gasoline terminals shall comply with the following within the limits of section (1) of this rule:

(a) All displaced vapors and gases during tank truck gasoline loading operations shall be vented only to the vapor control system;

(b) The loading device must not leak when in use. The loading device shall be designed and operated to allow no more than 10 cubic centimeters drainage per disconnect on the basis of 5 consecutive disconnects;

(c) All loading liquid lines shall be equipped with fittings which make vapor-tight connections and which close automatically and immediately when disconnected;

(d) All vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically and immediately when disconnected or which contain vapor tight unidirectional valves;

(e) Gasoline shall be handled in a manner to prevent its being discarded in sewers or stored in open containers or handled in any manner that would result in evaporation. If more than 5 gallons are spilled, the operator shall report the spillage in accordance with OAR 340-214-0300 through 340-214-0350;

(f) The vapor balance system shall be operated in a manner to prevent the pressure therein from exceeding the tank truck or trailer pressure relief settings.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0100 Testing Vapor Transfer and Collection Systems

(1) No person shall allow a vapor-laden delivery vessel subject to OAR 340-232-0080(5) to be filled or emptied unless the delivery vessel:

(a) Is tested annually according to the test Method 32 on file with the Department, or **CFR Part 60**, EPA Method 21 or 27, or **California Air Resources Board Method 2-5**;

(b) Sustains a pressure change of no more than 750 pascals (3 inches of H₂O) in five minutes when pressurized to a gauge pressure of 4,500 pascals (18 inches of H₂O) or evacuated to a gauge pressure of 1,500 pascals (6 inches of H₂O) during the testing required in subsection (1)(a) of this rule; and

(c) Displays a valid permit near the Department of Transportation test date markings required by **49 CFR 177.824h**, which:

(A) Shows the year and month that the gasoline tank truck last passed the test required in subsections (1)(a) and (b) of this rule;

(B) Shows the identification of the permit; and

(C) Expires not more than one year from the date of the leak-test test, or if tested in California, on the expiration date so specified.

(d) Has its vapor return hose connected by the truck operator so that gasoline vapor is not expelled to the atmosphere.

(2) The owner or operator of a vapor collection system subject to this regulation shall design and operate the vapor collection system and the gasoline loading equipment in a manner that prevents:

(a) Gauge pressure from exceeding 4,500 pascals (18 inches of H₂O) and vacuum from exceeding 1,500 pascals (6 inches of H₂O) in the gasoline tank truck being loaded;

(b) A reading equal to or greater than 100 percent of the lower explosive limit (LEL, measured as propane) at 2.5 centimeters from all points on the perimeter of a potential leak source when measured by the Method 31 and 33 on file with the Department, or unloading operations at gasoline dispensing facilities, bulk plants and bulk terminals; and

(c) Visible liquid leaks during loading or unloading operations at gasoline dispensing facilities, bulk plants and bulk terminals.

(3) The Department may, at any time, monitor a gasoline tank truck, vapor collection system, or vapor control system, by the methods on file with the Department, to confirm continuing compliance with section (1) or (2) of this rule.

(4) Recordkeeping and Reporting:

(a) The owner or operator of a source of volatile organic compounds subject to this rule shall maintain records of all certification testing and repairs. The records must identify the gasoline tank truck, vapor collection system, or vapor control system; the date of the test or repair; and if applicable, the type of repair and the date of retest. The records must be maintained in a legible, readily available condition for at least two years after the date of testing or repair was completed;

(b) Copies of all records and reports under subsection (4)(a) of this rule shall be submitted to the Department within 30 days of certification testing.

(c) Persons applying for a permit required by this rule shall at the time of application pay a fee of \$25.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0110 Loading Gasoline onto Marine Tank Vessels

(1) Applicability. This rule applies to loading events at any location within the Portland ozone air quality maintenance area when gasoline is placed into a marine tank vessel cargo tank; or where any liquid is placed into a marine tank vessel cargo tank that had previously held gasoline. The owner or operator of each marine terminal and marine tank vessel is responsible for and must comply with this rule.

(2) Exemptions. The following activities are exempt from the marine vapor control emission limits of this rule:

(a) Marine vessel bunkering;

(b) Lightering when neither vessel is berthed at a marine terminal dock,

(c) Loading when both of the following conditions are met:

(A) The vessel has been gas freed (regardless of the prior cargo), and

(B) When loading any products other than gasoline.

(3) Vapor Collection System. The owner or operator of a marine terminal subject to this rule must equip each loading berth with a vapor collection system that is designed to collect all displaced VOC vapors during the loading of marine tank vessels. The owner or operator of a marine tank vessel subject to this rule must equip each marine tank vessel with a vapor collection system that is designed to collect all displaced VOC vapors during the loading of marine tank vessels. The collection system must be designed such that all displaced VOC vapors collected during any loading event are vented only to the control device.

(4) Marine Vapor Control Emission Limits. Vapors that are displaced and collected during marine tank vessel loading events must be reduced from the uncontrolled condition by at least 95 percent by weight, as determined by EPA Method 25 or other methods approved in writing by the Department or limited to 5.7 grams per cubic meter (2 lbs. per 1000 bbls) of liquid loaded.

(5) Operating Practice and Maintenance.

(a) All hatches, pressure relief valves, connections, gauging ports and vents associated with the loading of fuel product into marine tank vessels must be maintained to be leak free and vapor tight.

(b) The owner or operator of any marine tank vessel must certify to the Department that the vessel is leak free, vapor tight, and in good working order based on an annual inspection using EPA Method 21 or other methods approved in writing by the Department.

(c) Gaseous leaks must be detected using EPA Method 21 or other methods approved in writing by the Department.

(d) Loading must cease anytime gas or liquid leaks are detected. Loading may continue only after leaks are repaired or if documentation is provided to the Department that the repair of leaking components is technically infeasible without dry-docking the vessel or cannot otherwise be undertaken safely. Subsequent loading events involving the leaking components are prohibited until the leak is repaired. Any liquid or gaseous leak detected by Department staff is a violation of this rule.

(6) Monitoring and Record-Keeping.

(a) Marine terminal operators must maintain operating records for at least five years of each loading event at their terminal. Marine tank vessel owners and operators are responsible for maintaining operating records for at least five years for all loading events involving each of their vessels. Records must be made available to DEQ upon request. These records must include but are not limited to:

(A) The location of each loading event.

(B) The date of arrival and departure of the vessel.

(C) The name, registry and legal owner of each marine tank vessel participating in the loading event.

(D) The type and amount of fuel product loaded into the marine tank vessel.

(E) The prior cargo carried by the marine tank vessel. If the marine tank vessel has been gas freed, then the prior cargo can be recorded as gas freed.

(F) The description of any gaseous or liquid leak, date and time of leak detection, leak repair action taken and screening level after completion of the leak repair.

(7) Lightering exempted from controls by subsection 2 (b) of this rule must be curtailed from 2:00 a.m. until 2:00 p.m. when the Department declares a Clean Air Action (CAA) day. If the Department declares a second CAA day before 2:00 p.m. of the first curtailment period, then such uncontrolled lightering must be curtailed for an additional 24 hours until 2:00 p.m. on the second day. If a third CAA day in a row is declared, then uncontrolled lightering is permissible for a 12-hour period starting at 2 p.m. on the second CAA day and ending at 2 a.m. on the third CAA day. Uncontrolled lightering must be curtailed from 2 a.m. until 2 p.m. on the third CAA day. If the Department continues to declare CAA days consecutively after the third day, the curtailment and

loading pattern used for the third CAA day will apply.

(8) Safety/Emergency Operations. Nothing in this rule is intended to:

(a) Require any act or omission that would be in violation of any regulation or other requirement of the United States Coast Guard; or

(b) Prevent any act that is necessary to secure the safety of a vessel or the safety of passengers or crew.

State effective: 6/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-232-0120 Cutback and Emulsified Asphalt

(1) Use of any cutback asphalts for paving roads and parking areas is prohibited during the months of April, May, June, July, August, September, and October, except as provided for in section (2) of this rule.

(2) Slow curing (SC) and medium curing (MC) cutback asphalts are allowed during all months for the following uses and applications:

(a) Solely as a penetrating prime coat for aggregate bases prior to paving;

(b) For the manufacture of medium-curing patching mixes to provide long-period storage stockpiles used exclusively for pavement maintenance; or

(c) For all uses when the National Weather Service forecast of the high temperature during the 24-hour period following application is below 10E C. (50E F.).

(3) Rapid curing (RC) grades of cutback asphalt are always prohibited.

(4)(a) Use of emulsified asphalts is unrestricted if solvent content is kept at or less than the limits listed below. If these limits are exceeded, then the asphalt shall be classified as medium curing (MC) cutback asphalts, and shall be limited to only the uses permitted by section (2) of this rule. (Grades of Emulsion Per AASHTO Designation M 208-72 — Maximum Solvent Content by Weight.):

(A) CRS-1 — 3%;

(B) CRS-2 — 3%;

(C) CSS-1 — 3%;

(D) CSS-1h — 3%;

(E) CMS-2 — 8%;

(F) CMS-2h — 8%;

(G) CMS-2S — 12%.

(b) Solvent content is determined by ASTM distillation test D-244.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0130 Petroleum Refineries

This rule shall apply to all petroleum refineries:

(1) Vacuum-Producing Systems:

(a) Noncondensable VOC from vacuum producing systems shall be piped to an appropriate firebox, incinerator or to a closed refinery system;

(b) Hot wells associated with contact condensers shall be tightly covered and the collected VOC introduced into a closed refinery system.

(2) Wastewater Separators:

(a) Wastewater separators' forebays shall incorporate a floating pontoon or fixed solid cover with all openings sealed totally enclosing the compartmented liquid contents, or a floating pontoon or double deck-type cover equipped with closure seals between the cover edge and compartment wall;

(b) Accesses for gauging and sampling shall be designed to minimize VOC emissions during actual use. All access points shall be closed with suitable covers when not in use.

(3) Process Unit Turnaround:

(a) The VOC contained in a process unit to be depressurized for turnaround shall be introduced to a closed refinery system, combusted by a flare, or vented to a disposal system;

(b) The pressure in a process unit following depressurization for turnaround shall be less than 5 psig before venting to the ambient air.

(4) Maintenance and Operation of Emission Control Equipment: Equipment for the reduction, collection or disposal of VOC shall be maintained and operated in a manner commensurate with the level of maintenance and housekeeping of the overall plant.

(5) Recordkeeping: The owner or operator shall maintain a record of process unit turnarounds including an approximation of the quantity of VOC emitted to the atmosphere. Records shall be maintained for two years.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0140 Petroleum Refinery Leaks

(1) All persons operating petroleum refineries shall comply with this section concerning leaks:

(a) The owner or operator of a petroleum refinery complex, upon detection of a leaking component, which has a volatile organic compound concentration exceeding 10,000 ppm when tested in the manner described below shall:

(A) Include the leaking component on a written list of scheduled repairs; and

(B) Repair and retest the component within 15 days.

(b) Except for safety pressure relief valves, no owner or operator of a petroleum refinery shall install or operate a valve at the end of a pipe or line containing volatile organic compounds unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only when a sample is being taken during maintenance operations;

(c) Pipeline valves and pressure relief valves in gaseous volatile organic compound service shall be marked in some manner that will be readily obvious to both refinery personnel performing monitoring and the Department.

(2) Testing Procedures: Testing and calibration procedures to determine compliance with this rule shall be done in accordance with EPA Method 21.

(3) Monitoring, Recordkeeping, Reporting:

(a) The owner or operator of a petroleum refinery shall maintain, as a minimum, records of all testing conducted under this rule; plus records of all monitoring conducted under subsections (b) and (c) of this section;

(b) The owner or operator of a petroleum refinery subject to this rule shall:

(A) Monitor yearly by the methods referenced in section (2) of this rule all:

- (i) Pump seals;
- (ii) Pipeline valves in liquid service; and
- (iii) Process drains.

(B) Monitor quarterly by the methods referenced in section (2) of this rule all:

- (i) Compressor seals;
- (ii) Pipeline valves in gaseous service; and
- (iii) Pressure relief valves in gaseous service.

(C) Monitor weekly by visual methods all pump seals;

(D) Monitor immediately any pump seal from which liquids are observed dripping;

(E) Monitor any relief valve within 24 hours after it has vented to the atmosphere; and

(F) Monitor immediately after repair of any component that was found leaking.

(c) Pressure relief devices which are connected to an operating flare header, vapor recovery device, inaccessible valves, storage tank valves, or valves that are not externally regulated are exempt from the monitoring requirements in subsection (b) of this section;

(d) The owner or operator of a petroleum refinery, upon the detection of a leaking component, shall affix a weatherproof and readily visible tag bearing an identification number and the date the leak is located to the leaking component. This tag shall remain in place until the leaking component is repaired;

(e) The owner or operator of a petroleum refinery, upon the completion of each yearly and/or quarterly monitoring procedure, shall:

(A) Submit a report to the Department on the 15th day of January, April, July, and September, listing the leaking components that were located but not repaired within the required time limit in subsection (1)(a) of this rule;

(B) Submit a signed statement attesting to the fact that, with the exception of those leaking components listed in paragraph (A) of this subsection, all monitoring and repairs were performed as stipulated.

(f) The owner or operator of a petroleum refinery shall maintain a leaking component monitoring log which shall contain, at a minimum, the following data:

- (A) The name of the process unit where the component is located;
- (B) The type of component (e.g., valve, seal);

- (C) The tag number of the component;
- (D) The date on which a leaking component is discovered;
- (E) The date on which a leaking component is repaired;
- (F) The date and instrument reading of the recheck procedure after a leaking component is repaired;
- (G) A record of the calibration of the monitoring instrument;
- (H) Those leaks that cannot be repaired until turnaround, (exceptions to the 15-day requirement of paragraph (1)(a)(B) of this rule); and
- (I) The total number of components checked and the total number of components found leaking.

(g) Copies of all records and reports required by this section shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report submitted;

(h) Copies of all records and reports required by this section shall immediately be made available to the Department upon verbal or written request at any reasonable time;

(i) The Department may, upon written notice, modify the monitoring, recordkeeping and reporting requirements.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0150 Liquid Storage

(1) Owners or operators which have tanks storing methanol or other volatile organic compound liquids with a true vapor pressure, as stored, greater than 10.5 kPa (kilo Pascals) (1.52 psia), at actual monthly average storage temperatures, and having a capacity greater than 150,000 liters (approximately 39,000 gallons) shall comply with one of the following:

(a) Meet the equipment specifications and maintenance requirements of the federal standards of performance for new stationary sources — Storage Vessels for Petroleum Liquids, **40 CFR, 60 Subpart K, and Ka**, as amended by **Federal Register, April 4, 1980, pages 23379 through 23381**;

(b) Be retrofitted with a floating roof or internal floating cover using at least a nonmetallic resilient seal as the primary seal meeting the equipment specifications in the federal standards referred to in subsection (a) of this section or its equivalent.

(2) All seals used in subsections (1)(b) and (c) of this rule are to be maintained in good operating condition and the seal fabric shall contain no visible holes, tears or other openings.

(3) All openings, except stub drains and those related to safety (such as slotted gage wells), are to be sealed with suitable closures. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place; except for slotted gage wells which must have floating seals with one-half inch edge gaps or less.

(4) Secondary Seals:

(a) Applicability: Subsection (c) of this section applies to all VOC liquid storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (39,000 gallons) except as indicated in subsection (c) and paragraph (c)(H) of this section;

(b) Exemptions: Subsection (c) of this section does not apply to petroleum liquid storage vessels which:

- (A) Are used to store waxy, heavy pour crude oil;
 - (B) Have capacities less than 1,600,000 liters (420,000 gallons) and are used to store produced crude oil and condensate prior to lease custody transfer;
 - (C) Contain a VOC liquid with a true vapor pressure of less than 10.5 kPa (1.5 psia) where the vapor pressure is measured at the storage temperature;
 - (D) Contain a VOC liquid with a true vapor pressure less than 27.6 kPa (4.0 psia):
 - (i) Are of welded construction; and
 - (ii) Presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Department; or
 - (E) Are of welded construction, equipped with a metallic-type shoe primary seal and has a secondary seal from the top of the shoe seal to the tank wall (shoemounted secondary seal).
- (c) No owner of a VOC liquid storage vessel subject to this rule shall store VOC liquid in that vessel unless:
- (A) The vessel has been fitted with:
 - (i) A continuous secondary seal extending from the floating roof to the tank wall (rim-mounted secondary seal); or
 - (ii) A closure or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required under subparagraph (A)(i) of this subsection as approved in writing by the Department.
 - (B) All seal closure devices meet the following requirements:
 - (i) There are no visible holes, tears, or other openings in the seal(s) or seal fabric;
 - (ii) The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and
 - (iii) For vapor mounted seals, the accumulated area of gaps exceeding 0.32 cm (1/8 inch) in width between the secondary seal and the tank wall are determined by the method in subsection (d) of this section and shall not exceed 21.2 cm² per meter of tank diameter (1.0 in² per foot of tank diameter).
 - (C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:
 - (i) Equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and
 - (ii) Equipped with projections into the tank which remain below the liquid surface at all times.
 - (D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports;
 - (E) Rim vents are set to open only when the roof is being floated off the leg supports or at the manufacturer's recommended setting;
 - (F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers

which cover at least 90 percent of the area of the opening; and

(G) The owner or operator of a VOC liquid storage vessel with an external floating roof subject to subsection (c) of this section shall:

(i) Perform routine inspections semi-annually in order to ensure compliance with paragraphs (A) through (F) of this subsection and the inspections shall include a visual inspection of the secondary seal gap;

(ii) Measure the secondary seal gap annually in accordance with subsection (d) of this section when the floating roof is equipped with a vapor-mounted primary seal; and

(iii) Maintain records of the types of VOC liquids stored, the maximum true vapor pressure of the liquid as stored, and the results of the inspections performed in subparagraphs (G)(i) and (ii) of this subsection.

(H) The owner or operator of a VOC liquid storage vessel having a capacity equal to or less than 150,000 liters (39,000 gallons) with an external floating roof, but containing a VOC liquid with a true vapor pressure greater than 7.00 kPa (1.0 psi), shall maintain records of the average monthly storage temperature, the type of liquid, and the maximum true vapor pressure for all VOC liquids with a true vapor pressure greater than 7.0 kPa;

(I) The owner or operator of a VOC liquid storage vessel subject to this rule, shall submit to the Department, as a minimum, annual reports summarizing the inspections;

(J) Copies of all records and reports under paragraphs (G) (H), and (I) of this subsection shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report submitted;

(K) Copies of all records and reports under this section shall immediately be made available to the Department, upon verbal or written request, at any reasonable time;

(L) The Department may, upon written notice, require more frequent reports or modify the monitoring and recordkeeping requirements, when necessary to accomplish the purposes of this rule.

(d) Secondary Seal Compliance Determination:

(A) The owner or operator of any volatile organic compound source required to comply with section (4) of this rule shall demonstrate compliance by the methods of this section or an alternative method approved by the Department;

(B) A person proposing to conduct a volatile organic compound emissions test shall notify the Department of the intent to test not less than 30 days before the proposed initiation of the tests so the Department may observe the test. The notification shall contain the information required by, and be in a format approved by the Department;

(C) Compliance with subparagraph (4)(c)(B)(iii) of this rule shall be determined by:

(i) Physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 0.32 cm (1/8 inch) uniform diameter probe passes freely (without forcing or binding against the seal) between the seal and tank wall; and

(ii) Summing the area of the individual gaps.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0160 Surface Coating in Manufacturing

(1) No person shall operate a coating line which emits into the atmosphere volatile organic compounds in excess of the limits in section (5) of this rule, expressed as pounds VOC per gallon of coating applied, excluding water and exempt solvents, unless an alternative emission limit is approved by the Department pursuant to section (3) of this rule or emissions are controlled to an equivalent level pursuant to section (7) of this rule.

(2) Exemptions:

(a) This rule does not apply to airplanes painted out of doors in open air; automobile and truck refinishing; customized top coating of automobiles and trucks, if production is less than 35 vehicles per day; marine vessels and vessel parts painted out in the open air; flat wood coating; wood furniture and wood cabinets; wooden doors, mouldings, and window frames; machine staining of exterior wood siding; high temperature coatings (for service above 500E F.); lumber marking coatings; potable water tank inside coatings; high performance inorganic zinc coatings, air dried, applied to fabricated steel; and markings by stencil for railroad cars;

(b) This rule does not apply to:

(A) Sources whose potential to emit from activities identified in section (5) of this rule of volatile organic compounds are less than 10 tons per year (or 3 lb. VOC/hr or 15 lb. VOC/day actual); or

(B) Sources used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance (such as research facilities, pilot plant operations, and laboratories) unless:

(i) The operation of the source is an integral part of the production process; or

(ii) The emissions from the source exceed 363 kilograms (800 pounds) in any calendar month.

(3) Exceptions:

(a) On a case-by-case basis, the Department may approve exceptions to the emission limits specified in section (5) of this rule, upon documentation by the source that an alternative emission limit would satisfy the federal criteria for reasonably available control technology (RACT);

(b) Included in this documentation must be a complete analysis of technical and economic factors which:

(A) Prevent the source from using both compliance coatings and pollution control equipment; and

(B) Justify the alternative emission limit sought by the source.

(c) The alternative emission limit approved by the Department shall be incorporated into the source's Air Contaminant Discharge Permit, or Title V operating permit, and shall not become effective until approved by EPA as a source specific SIP revision.

(4) Applicability: This rule applies to each coating line, which includes the application area(s), flashoff area(s), air and forced air drier(s), and oven(s) used in the surface coating of the parts and products in subsections (5)(a) through (j) of this rule.

(5) Process and Limitation: These emission limitations shall be based on a daily average except

subsection (5)(e) of this rule shall be based on a monthly average. If more than one emission limitation in this rule applies to a specific coating, then the most stringent emission limitation shall be applied:

(a) Can Coating:

(A) Sheet basecoat (exterior and interior) and over-varnish; two-piece can exterior (basecoat and over-varnish) 2.8 lb/gal;

(B) Two- and three-piece can interior and exterior body spray, two-piece can exterior end (spray or roll coat) 4.2 lb/gal;

(C) Three-piece can side-seam spray 5.5 lb/gal;

(D) End sealing compound 3.7 lb/gal;

(E) End Sealing Compound for fatty foods 3.7 lb/gal.

(b) Fabric Coating 2.9 lb/gal;

(c) Vinyl Coating 3.8 lb/gal;

(d) Paper Coating 2.9 lb/gal;

(e) Existing Coating of Paper and Film in the Medford-Ashland AQMA 55 lb.*

[NOTE: *55 lb VOC per 1000 sq. yds. of material per pass.]

(f) Auto and Light Duty Truck Coating:

(A) Prime 1.9 lb/gal;

(B) Topcoat 2.8 lb/gal;

(C) Repair 4.8 lb/gal.

(g) Metal Furniture Coating 3.0 lb/gal;

(h) Magnet Wire Coating 1.7 lb/gal;

(i) Large Appliance Coating 2.8 lb/gal;

(j) Miscellaneous Metal Parts and Products:

(A) Clear Coatings 4.3 lb/gal;

(B) Force Air Dried or Air Dried 3.5 lb/gal;

(C) Extreme Performance Coatings 3.5 lb/gal;

(D) Other Coatings (i.e., Powder, oven dried) 3.0 lb/gal;

(E) High Performance Architectural Coatings 3.5 lb/gal.

(6) Compliance Determination: Compliance with this rule shall be determined by testing in accordance with **40 CFR Part 60 EPA Method 18, 24, 25**, a material balance method, or an equivalent plant specific method approved by and on file with the Department. The limit in section (1) of this rule of VOC in the coating is based upon an assumed solvent density, and other assumptions unique to a coating line; where conditions differ, such as a different solvent density, a plant specific limit developed pursuant to the applicable Control Technology Guideline document may be submitted to the Department for approval.

(7) Reduction Method: The emission limits of sections (3) and (5) of this rule shall be achieved by:

- (a) The application of low solvent content coating technology;
- (b) An incineration system which oxidizes at least 90.0 percent of the nonmethane volatile organic compounds entering the incinerator (VOC measured as total combustible carbon) to carbon dioxide and water; or
- (c) An equivalent means of VOC removal. The equivalent means must be approved by the Department and will be incorporated in the source's Air Contaminant Discharge Permit or Title V Permit, and shall not become effective until approved by EPA as a source-specific SIP revision. Other alternative emission controls approved by the Department and allowed by EPA may be used to provide an equivalent means of VOC removal.

(8) Recordkeeping Requirements:

(a) A current list of coatings shall be maintained which provides all the coating data necessary to evaluate compliance, including the following information, where applicable:

- (A) Coating catalyst and reducer used;
- (B) Mix ratio of components used;
- (C) VOC content of coating as applied; and
- (D) Oven temperature.

(b) Where applicable, a monthly record shall be maintained indicating the type and amount of solvent used for cleanup and surface preparation;

(c) Such records shall be retained and available for inspection by the Department for a period of two years.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0170 Aerospace Component Coating Operations

(1) No owner or operator of an aerospace component coating facility shall emit into the atmosphere volatile organic compounds in excess of the following limits, expressed as pounds VOC per gallon of coating applied, excluding water and exempt solvents, unless an alternative emission limit is approved by the Department pursuant to section (4) of this rule or emissions to the atmosphere are controlled to an equivalent level pursuant to section (10) of this rule:

- (a) Primer — 2.9 lb./gal.;
- (b) Interior Topcoat — 2.8 lb./gal.;

- (c) Electric or Radiation Effect Coating — 6.7 lb./gal.;
 - (d) Extreme Performance Interior Topcoat — 3.5 lb./gal.;
 - (e) Fire Insulation Coating — 5.0 lb./gal.;
 - (f) Fuel Tank Coating — 6.0 lb./gal.;
 - (g) High Temperature Coating* — 6.0 lb./gal.;
 - (h) Sealant — 5.0 lb./gal.;
 - (i) Self-Priming Topcoat — 3.5 lb./gal.;
 - (j) Topcoat — 3.5 lb./gal.;
 - (k) Pretreatment Wash Primer — 3.5 lb./gal.;
 - (l) Sealant Bonding Primer — 6.0 lb./gal.;
 - (m) Temporary Protective Coating — 2.1 lb./gal.
- *(For conditions between 350E F. - 500E F.)

(2) Exemptions: This rule does not apply to the following:

(a) The exterior of fully assembled airplanes painted out of doors, high temperature coatings (for conditions over 500E F.), adhesive bonding primer, flight test coatings, and space vehicle coatings;

(b) Sources whose potential emit from activities identified in section (1) of this rule before add on controls of volatile organic compounds are less than ten tons per year (or 3 lb. VOC/hr or 15 lb. VOC/day actual);

(c) The use of separate coating formulations in volumes of less than 20 gallons per calendar year. No source shall use more than a combined total of 250 gallons per calendar year of exempt coatings. Records of coating usage shall be maintained as per section (8) of this rule; or

(d) Sources used exclusively for chemical or physical analysis or determination of product quality and coating performance (such as research facilities and laboratories) unless:

(A) The operation of the source is an integral part of the production process; or

(B) The emissions from the source exceed 363 kilograms (800 pounds) in any calendar month.

(3) Exceptions:

(a) On a case-by-case basis, the Department may approve exceptions to the emission limits specified in section (1) of this rule, upon documentation by the source that an alternative emission limit would satisfy the federal criteria for reasonably available control technology (RACT);

(b) Included in this documentation must be a complete analysis of technical and economic factors which:

(A) Prevent the source from using both compliance coatings and pollution control equipment; and

(B) Justify the alternative emission limit sought by the source.

(c) The alternative emission limit approved by the Department shall be incorporated into the source's Air Contaminant Discharge Permit and shall not become effective until approved by EPA as a source-specific SIP revision.

(4) Applicability: This rule applies to each coating line, which includes the application area(s), flashoff area(s), air and force air drier(s), and oven(s) used in the surface coating of aerospace

components in subsections (1)(a) through (m) of this rule. If more than one emission limitation in this rule applies to a specific coating, then the most stringent emission limitation shall be applied.

(5) Solvent Evaporation Minimization:

(a) Closed containers shall be used for the storage or disposal of cloth or paper used for solvent surface preparation and cleanup;

(b) Fresh and spent solvent shall be stored in closed containers;

(c) Organic compounds shall not be used for the cleanup of spray equipment unless equipment is used to collect the cleaning compounds and to minimize their evaporation;

(d) Containers of coating, catalyst, thinner, or solvent shall not be left open to the atmosphere when not in use.

(6) Stripper Limitations: No stripper shall be used which contains more than 400 grams/liter (3.3 lbs./gal.) of VOC or which has a true vapor pressure of 1.3 kPa (0.19 psia) at actual usage temperature.

(7) Maskant for Chemical Processing Limitation: No maskant shall be applied for chemical processing unless the VOC emissions from coating operations are reduced by 85 percent, or the coating contains less than 600 grams of VOC per liter (5.0 lbs./gal.) of coating excluding water, as applied.

(8) Compliance determination: Compliance with this rule shall be determined by testing in accordance with **40 CFR, Part 60, Appendix A**, Method 24 for determining the VOC content of the coating materials. Emissions from the coating processes and/or VOC emissions control efficiencies shall be determined by testing in accordance with **40 CFR, Part 60, Appendix A**, Method 18, 25, California Method ST-7, a material balance method, or an equivalent plant specific method approved by EPA and the Department and on file with the Department. The limit in section (1) of this rule of VOC in the coating is based upon an assumed solvent density, and other assumptions unique to a coating line; where conditions differ, such as a different solvent density, a plant specific limit may be submitted to the Department and EPA for approval.

(9) Reduction Method: The emission limits of section (1) of this rule shall be achieved by:

(a) The application of a low solvent content coating technology;

(b) A vapor collection and disposal system; or

(c) An equivalent means of VOC removal. The equivalent means must be approved by the Department and will be incorporated in the source's Air Contaminant Discharge Permit or Title V Operating Permit, and shall not become effective until approved by EPA as a source-specific SIP revision. Other alternative emission controls approved by the Department and allowed by EPA may be used to provide an equivalent means of VOC removal.

(10) Recordkeeping Requirements:

(a) A current list of coatings shall be maintained which provides all of the coating data necessary to evaluate compliance, including the following information, where applicable:

(A) A daily record indicating the mix ratio of components used; and

(B) The VOC content of the coating as applied.

(b) A monthly record shall be maintained indicating the type and amount of solvent used for cleanup and surface preparation;

(c) A monthly record shall be maintained indicating the amount of stripper used;

(d) Such records shall be retained and available for inspection by the Department for a period of two years.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0180 Degreasers

Cold cleaners, open top vapor degreasers, and conveyORIZED degreasers are exempt from this rule if they use fluids which are not photochemically reactive. These fluids are defined in the definition of Volatile Organic Compound (VOC) under OAR 340-200-0020.

(1) The owner or operator of dip tank cold cleaners shall comply with the equipment specifications in this section:

(a) Be equipped with a cover that is readily opened and closed. This is required of all cold cleaners, whether a dip tank or not;

(b) Be equipped with a drainrack, suspension basket, or suspension hoist that returns the drained solvent to the solvent bath;

(c) Have a freeboard ratio of at least 0.5;

(d) Have a visible fill line.

(2) An owner or operator of a cold cleaner shall be responsible for following the required operating parameters and work practices. The owner shall post and maintain in the work area of each cold cleaner a pictograph or instructions clearly explaining the work practices in this section:

(a) The solvent level shall not be above the fill line;

(b) The spraying of parts to be cleaned shall be performed only within the confines of the cold cleaner;

(c) The cover of the cold cleaner shall be closed when not in use or when parts are being soaked or cleaned by solvent agitation;

(d) Solvent-cleaned parts shall be rotated to drain cavities or blind holes and then set to drain until dripping has stopped;

(e) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, such that no greater than 20 percent of the waste by weight can evaporate into the atmosphere. Handling of the waste must also be done in accordance with the Department's solid and Hazardous Waste Rules, OAR Chapter 340, Division 100.

(3) The owner or operator shall maintain cold cleaners in good working condition and free of solvent leaks.

(4) If the solvent has a volatility greater than 2.0 kPa (0.3 psi) measured at 38E C. (100E F.), or if the solvent is agitated or heated, then the cover must be designed so that it can be easily operated with one hand or foot.

(5) If the solvent has a volatility greater than 4.3 kPa (0.6 psi) measured at 38E C. (100E F.), then the drainage facility must be internal, so that parts are enclosed under the cover while draining. The

drainage facility may be external for applications where an internal type cannot fit into the cleaning system.

(6) If the solvent has a volatility greater than 4.3 kPa (0.6 psi) measured at 38E C. (100E F.), or if the solvent is heated above 50E C. (120E F.), then one of the following solvent vapor control systems must be used:

- (a) The freeboard ratio must be equal to or greater than 0.70; or
- (b) Water must be kept over the solvent, which must be insoluble in and heavier than water; or
- (c) Other systems of equivalent control, such as a refrigerated chiller.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0190 Open Top Vapor Degreasers

(1) The owner or operator of all open top vapor degreasers shall comply with the following equipment specifications:

(a) Be equipped with a cover that may be readily opened and closed. When a degreaser is equipped with a lip exhaust, the cover shall be located below the lip exhaust. The cover shall move horizontally or slowly so as not to agitate and spill the solvent vapor. The degreaser shall be equipped with at least the following three safety switches:

(A) Condenser flow switch and thermostat to shut off sump heat if coolant is either not circulating or too warm;

(B) Spray safety switch to shut off spray pump or conveyor if the vapor level drops excessively, (e.g., greater than 10 cm (4 inches));

(C) Vapor level control thermostat to shut off sump heat when vapor level rises too high.

(b)(A) A closed design such that the cover opens only when the part enters or exits the degreaser and when the degreaser starts up, forming a vapor layer, the cover may be opened to release the displaced air, and either;

(B) A freeboard ratio equal to or greater than 0.75; or

(C) A freeboard, refrigerated or cold water, chiller.

(c) Post a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:

(A) Do not degrease porous or absorbent materials such as cloth, leather, wood or rope;

(B) The cover of the degreaser should be closed at all times except when processing workloads;

(C) When the cover is open the lip of the degreaser should not be exposed to steady drafts greater than 15.3 meters per minute (50 feet/minute);

(D) Rack parts so as to facilitate solvent drainage from the parts;

(E) Workloads should not occupy more than one-half of the vapor-air interface area;

(F) When using a powered hoist, the vertical speed of parts in and out of the vapor zone should be

less than 3.35 meters per minute (11 feet/minute);

(G) Degrease the workload in the vapor zone until condensation ceases;

(H) Spraying operations should be done within the vapor layer;

(I) Hold parts in the degreaser until visually dry;

(J) When equipped with a lip exhaust, the fan should be turned off when the cover is closed;

(K) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser;

(L) Water shall not be visible in the solvent stream from the water separator.

(2) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.

(3) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leakproof couplings.

(4) Still and sump bottoms shall be kept in closed containers.

(5) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, such that no greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. Handling of the waste must also be done in accordance with the Department's Solid and Hazardous Waste Rules, OAR Chapter 340, Division 100.

(6) Exhaust ventilation shall not exceed 20 m³/minute per m² (65 cfm per foot²) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans shall not be used near the degreaser opening.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0200 ConveyORIZED Degreasers

(1) The owner or operator of conveyORIZED cold cleaners and conveyORIZED vapor degreasers shall comply with the following operating requirements:

(a) Exhaust ventilation should not exceed 20 cubic meters per minute of square meter (65 cfm per foot²) of degreaser opening, unless necessary to meet OSHA requirements. Workplace fans should not be used near the degreaser opening;

(b) Post in the immediate work area a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:

(A) Rack parts for best drainage;

(B) Maintain vertical speed of conveyed parts to less than 3.35 meters per minute (11 feet/minute);

(C) The condenser water shall be turned on before the sump heater when starting up a cold vapor

degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.

(2) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.

(3) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leakproof couplings.

(4) Still and sump bottoms shall be kept in closed containers.

(5) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, such that no greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. Handling of the waste must also be done in accordance with the Department's Solid and Hazardous Waste Rules, OAR Chapter 340, Division 100.

(6) All conveyORIZED cold cleaners and conveyORIZED vapor degreasers with air/vapor interfaces of 2.0 m² or greater shall have one of the following major control devices installed and operating:

(a) Carbon adsorption system, exhausting less than 25 ppm of solvent averaged over a complete adsorption cycle, based on exhaust ventilation of 15 m³/minutes per m² of air/vapor area, when down-time covers are open; or

(b) Refrigerated chiller with control effectiveness equal to or better than subsection (a) of this section; or

(c) A system with control effectiveness equal to or better than subsection (a) of this section.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0210 Asphaltic and Coal Tar Pitch Used for Roofing Coating

(1) No person shall operate or use equipment for melting, heating or holding asphalt or coal tar pitch for the on-site construction, installation, or repair of roofs unless the gas-entrained effluents from such equipment are contained by close fitting covers.

(2) A person operating equipment subject to this rule shall maintain the temperature of the asphaltic or coal tar pitch below 285E C. (550E F.), or 17E C. (30E F.) below the flash point whichever is the lower temperature, as indicated by a continuous reading thermometer.

(3) The provisions of this rule shall not apply to equipment having a capacity of 100 liters (26 gallons) or less; or to equipment having a capacity of 600 liters (159 gallons) or less provided it is equipped with a tightly fitted lid or cover.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0220 Flat Wood Coating

(1) This rule applies to all flat wood manufacturing and surface finishing facilities, that manufacture the following products:

(a) Printed interior panels made of hardwood plywood and thin particle board;

(b) Natural finish hardwood plywood panels; or

(c) Hardboard paneling with Class II finishes.

(2) This rule does not apply to the manufacture of exterior siding, tileboard, particle board used as a furniture component, or paper or plastic laminates on wood or wood-derived substrates.

(3) No owner or operator of a flat wood manufacturing facility subject to this rule shall emit volatile organic compounds from a coating application system in excess of:

(a) 2.9 kg per 100 square meters of coated finished product (6.0 lb./1,000 square feet) from printed interior panels, regardless of the number of coats applied;

(b) 5.8 kg per 100 square meters of coated finished product (12.0 lb./1,000 square feet) from natural finish hardwood plywood panels, regardless of the number of coats applied; and

(c) 4.8 kg per 100 square meters of coated finished product (10.0 lb./1,000 square feet) from Class II finishes on hardboard panels, regardless of the number of coats applied.

(4) The emission limits in section (3) of this rule shall be achieved by:

(a) The application of low solvent content coating technology; or

(b) An incineration system which oxidizes at least 90.0 percent of the nonmethane volatile organic compounds entering the incinerator (VOC measured as total combustible carbon) to carbon dioxide and water; or

(c) An equivalent means of VOC removal. The equivalent means must be approved in writing by the Department. The time period used to determine equivalency shall not exceed 24 hours.

(5) A capture system must be used in conjunction with the emission control systems in subsections (4)(b) and (c) of this rule. The design and operation of a capture system must be consistent with good engineering practice and shall be required to provide for an overall emission reduction sufficient to meet the emission limitations in section (3) of this rule.

(6) Compliance Demonstration:

(a) The owner or operator of a volatile organic compound source required to comply with this rule shall demonstrate compliance by the methods of subsection (c) of this section, or an alternative method approved by the Department;

(b) A person proposing to conduct a volatile organic compound emissions test shall notify the Department of the intent to test not less than 30 days before the proposed initiation of the tests so the Department may observe the test;

(c) Test procedures in **40 CFR, Part 60, EPA Method 18, 24, or 25** shall be used to determine compliance with section (3) of this rule;

(d) The Department may accept, instead of the coating analysis required by paragraph (c)(A) of this section, a certification by the coating manufacturer of the composition of the coating, if supported by actual batch formulation records. In the event of any inconsistency between a Method 18, 24, or 25 test and a facility's formulation data, the Method 18, 24, or 25 test will govern;

(e) If add-on control equipment is used, continuous monitors of the following parameters shall be

installed, periodically calibrated, and operated at all times that the associated control equipment is operating:

- (A) Exhaust gas temperature of all incinerators;
- (B) Temperature rise across a catalytic incinerator bed; and
- (C) Breakthrough of VOC on a carbon absorption unit.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-232-0230 Rotogravure and Flexographic Printing

(1) No owner or operator of a packaging rotogravure, publication rotogravure, flexographic or specialty printing facility, with the potential to emit greater than 90 mg/year (100 ton/year), employing ink containing solvent may operate, cause, allow or permit the operation of the press unless:

- (a) The volatile fraction of ink, as it is applied to the substrate contains 25.0 percent by volume or less of organic solvent and 75 percent by volume or more of water; or
- (b) The ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more nonvolatile material; or
- (c) The owner or operator installs and operates:

(A) A carbon absorption system which reduces the volatile organic emissions from the capture system by at least 90.0 percent by weight;

(B) An incineration system which oxidizes at least 90.0 percent of the nonmethane volatile organic compounds (VOC measured as total combustible carbon) to carbon dioxide and water; or

(C) An alternative volatile organic compound emissions reduction system demonstrated to have at least a 90.0 percent reduction efficiency, measured across the control system, and has been approved by the Department.

(2) A capture system must be used in conjunction with the emission control systems in subsection (1)(c) of this rule. The design and operation of a capture system must be consistent with good engineering practice, and shall be required to provide for an overall reduction in volatile organic compound emissions of at least:

- (a) 75.0 percent where a publication rotogravure process is employed;
- (b) 65.0 percent where a packaging rotogravure process is employed; or
- (c) 60.0 percent where a flexographic printing process is employed.

(3) Compliance Demonstration:

(a) Upon request of the Department, the owner or operator of a volatile organic compound source shall demonstrate compliance by the methods of this section or an alternative method approved by the Department. All tests shall be made by, or under the direction of, a person qualified by training and/or experience in the field of air pollution testing;

(b) A person proposing to conduct a volatile organic compound emissions test shall notify the Department of the intent to test not less than 30 days before the proposed initiation of the tests so the Department may observe the test. The notification shall contain the information required by, and be in a format approved by, the Department;

(c) Test procedures to determine compliance with this rule must be approved by the Department and consistent with:

(A) EPA test Method 18, 24, or 25, **40 CFR, Part 60**; or California Method ST-7;

(B) The Department may accept, instead of ink-solvent analysis, a certification by the ink manufacturer of the composition of the ink-solvent, if supported by actual batch formulation records. In the event of any inconsistency between an EPA Method test and a facility's formulation data, the EPA Method test will govern.

(d) If add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating:

(A) Exhaust gas temperature of all incinerators;

(B) Breakthrough of VOC on a carbon adsorption unit; and

(C) Temperature rise across a catalytic incinerator bed.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

DIVISION 234

EMISSION STANDARDS FOR WOOD PRODUCTS INDUSTRIES

340-234-0010 Definitions

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

(1) "Acid Absorption Tower" means the device where the sodium carbonate and sulfur dioxide react to form a sodium sulfite solution prior to use as the cooking liquor.

(2) "Acid Plant" means the facility in which the cooking liquor is either manufactured or fortified when not associated with a recovery furnace.

(3) "Average Daily Emission" means the total weight of sulfur oxides emitted in each month divided by the number of days of production that month.

(4) "Average Daily Production" means air dry tons of unbleached pulp produced in a month, divided by the number of days of production in that month.

(5) "Average Operating Opacity" means the opacity of emissions determined using EPA Method 9 on any three days within a 12-month period which are separated from each other by at least 30

days; a violation of the average operating opacity limitation is judged to have occurred if the opacity of emissions on each of the three days is greater than the specified average operating opacity limitation.

(6) “Baseline emissions rate” means a source’s actual emissions rate during the baseline period, as defined in OAR 340-200-0020, expressed as pounds of emissions per thousand square feet of finished product, on a 1/8” basis.

(7) “Blow System” means the storage chest, tank, or pit to which the digester pulp is discharged following the cook.

(8) “BLS” means Black Liquor Solids, dry weight.

(9) “Continual Monitoring”

(a) As used in OAR 340-234-0200 through 340-234-0350 means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emission levels or concentrations on an ongoing basis;

(b) As used in OAR 340-234-0400 through 340-234-0430 means sampling and analysis in a continuous or timed sequence, using techniques which will adequately reflect actual emission levels, ambient air levels, or concentrations on a continuous basis.

(10) “Continuous monitoring” means instrumental sampling of a gas stream on a continuous basis, excluding periods of calibration.

(11) “Continuous-Flow Conveying Methods” means methods which transport materials at uniform rates of flow, or at rates generated by the production process.

(12) “Daily Arithmetic Average” means the average concentration over the twenty-four hour period in a calendar day, or Department approved equivalent period, as determined by continuous monitoring equipment or reference method testing. Determinations based on EPA reference methods in accordance with the Department **Source Sampling Manual** consist of three separate consecutive runs having a minimum sampling time of sixty minutes each and a maximum sampling time of eight hours each. The three values for concentration (ppm or grains/dscf) are averaged and expressed as the daily arithmetic average which is used to determine compliance with process weight limitations, grain loading or volumetric concentration limitations and to determine daily emission rate.

(13) “Department” means the Department of Environmental Quality.

(14) “Emission” means a release into the atmosphere of air contaminants.

(15) “EPA Method 9” means the method for Visual Determination of the Opacity of Emissions From Stationary Sources described as Method 9 (average of 24 consecutive observations) in the Department Source Sampling Manual (January, 1992).

(16) “Fuel Moisture Content by Weight Greater Than 20 Percent” means bark, hogged wood waste, or other wood with an average moisture content of more than 20 percent by weight on a wet basis as used for fuel in the normal operation of a wood-fire veneer dryer as measured by **ASTMD4442-84** during compliance source testing.

(17) "Fugitive Emissions" means dust, fumes, gases, mist, odorous matter, vapors or any combination thereof not easily given to measurement, collection, and treatment by conventional pollution control methods.

(18) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(19) "Kraft Mill" or "Mill" means any industrial operation which uses for a cooking liquor an alkaline sulfide solution containing sodium hydroxide and sodium sulfide in its pulping process.

(20) "Lime Kiln" means any production device in which calcium carbonate is thermally converted to calcium oxide.

(21) "Maximum Opacity" means the opacity as determined by EPA Method 9 (average of 24 consecutive observations).

(22) "Modified Wigwam Waste Burner" means a device having the general features of a wigwam waste burner, but with improved combustion air controls and other improvements installed in accordance with design criteria approved by the Department.

(23) "Neutral Sulfite Semi-Chemical (NSSC) Pulp Mill" means any industrial operation which uses for cooking, a liquor prepared from a sodium carbonate solution and sulfur dioxide at a neutral pH, range 6-8.

~~(24) "Non-Condensibles" mean gases and vapors, contaminated with TRS compounds, from the digestion and multiple-effect evaporation processes of a mill.~~

(25) "Operations" includes plant, mill, or facility.

(26) "Other Sources"

~~(a) As used in OAR 340-234-0200 through 340-234-0270 means sources of TRS emissions in a kraft mill other than recovery furnaces, lime kilns, smelt dissolving tanks, sewers, drains, categorically insignificant activities and wastewater treatment facilities including but not limited to:~~

~~(A) Vents from knotters, brown stock washing systems, evaporators, blow tanks, blow heat accumulators, black liquor storage tanks, black liquor oxidation system, pre-steaming vessels, tall oil recovery operations; and~~

~~(B) Any vent which is shown to contribute to an identified nuisance condition.~~

(b) As used in OAR 340-234-0400 through 340-234-0430 means sources of sulfur oxide emissions including, but not limited to washers, washer filtrate tanks, digester dilution tanks, knotters, multiple effect evaporators, storage tanks, any operation connected with the handling of condensate liquids or storage of condensate liquids, and any vent or stack which may be a significant contributor of sulfur oxide gases other than those mentioned in emission standard limitations (OAR 340-234-0410).

(27) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

(28) “Particulate Matter”

(a) As used in OAR 340-234-0200 through 340-234-0350 means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured by EPA Method 5 or an equivalent test method in accordance with the Department **Source Sampling Manual**. Particulate matter emission determinations by EPA Method 5 shall use water as the cleanup solvent instead of acetone, and consist of the average of three separate consecutive runs having a minimum sampling time of 60 minutes each, a maximum sampling time of eight hours each, and a minimum sampling volume of 31.8 dscf each;

(b) as used in OAR 340-234-0400 through 340-234-0430 means a small, discrete mass of solid matter, including the solids dissolved or suspended in liquid droplets but not including uncombined water;

(c) as used in OAR 340-234-0500 through 340-234-0530 means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured in accordance with the Department **Source Sampling Manual (January, 1992)**. Particulate matter emission determinations shall consist of the average of three separate consecutive runs. For sources tested using DEQ Method 7, each run shall have a minimum sampling time of one-hour, a maximum sampling time of eight hours, and a minimum sampling volume of 31.8 dscf. For sources tested using DEQ Method 8, each run shall have a minimum sampling time of 15 minutes and shall collect a minimum particulate sample of 100 mg. Veneer dryers, wood particle dryers, fiber dryers and press/cooling vents shall be tested with DEQ Method 7; and air conveying systems shall be tested with DEQ Method 8.

(29) “Parts Per Million (ppm)” means parts of a contaminant per million parts of gas by volume on a dry-gas basis (1 ppm equals 0.0001% by volume).

(30) “Person” includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(31) “Plywood” means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.

(32) “Press/Cooling Vent” means any opening through which particulate and gaseous emissions from plywood, particleboard, or hardboard manufacturing are exhausted, either by natural draft or powered fan, from the building housing the process. Such openings are generally located immediately above the board press, board unloader, or board cooling area.

(33) “Production”

(a) As used in OAR 340-234-0200 through 340-234-0270 means the daily amount of air-dried unbleached pulp, or equivalent, produced during the 24-hour period each calendar day, or Department approved equivalent period, and expressed in air-dried metric tons (admt) per day. The corresponding English unit is air-dried tons (adt) per day;

(b) As used in OAR 340-234-0300 through 340-234-0350 means the daily amount of virgin air-dried unbleached NSSC pulp, or equivalent, produced during the 24-hour period each calendar day, or Department approved equivalent period, expressed in air-dried metric tons (ADMT) per day. The corresponding English unit is air-dried tons (ADT) per day.

(34) “Recovery Furnace” means the combustion device in which dissolved wood solids are incinerated and pulping chemicals recovered from the molten smelt. For OAR 340-234-0200 through 340-234-0270, and where present, this term shall include the direct contact evaporator.

(35) “Recovery System” means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, and storage facilities associated with the recovery cycle.

(36) “Significant Upgrading of Pollution Control Equipment” means a modification or a rebuild of an existing pollution control device for which a capital expenditure of 50 percent or more of the replacement cost of the existing device is required, other than ongoing routine maintenance.

(37) “Smelt dissolving tank vent” means the vent serving the vessel used to dissolve the molten smelt produced by the recovery furnace.

(38) “Special Problem Area” means the formally designated Portland, Eugene-Springfield, and Medford AQMAs and other specifically defined areas that the Environmental Quality Commission may formally designate in the future. The purpose of such designation will be to assign more stringent emission limits as may be necessary to attain and maintain ambient air standards or to protect the public health or welfare.

(39) “Spent Liquor Incinerator” means the combustion device in which pulping chemicals are subjected to high temperature to evaporate the water, incinerate organics and reclaim the sodium sulfate (saltcake) and sodium carbonate.

(40) “Standard Dry Cubic Meter” means the amount of gas that would occupy a volume of one cubic meter, if the gas were free of uncombined water, at a temperature of 20E C. (68E F.) and a pressure of 760 mm of mercury (29.92 inches of mercury). The corresponding English unit is standard dry cubic foot. When applied to recovery furnace gases “standard dry cubic meter” requires adjustment of the gas volume to that which would result in a concentration of 8% oxygen if the oxygen concentration exceeds 8%. When applied to lime kiln gases “standard dry cubic meter” requires adjustment of the gas volume to that which would result in a concentration of 10% oxygen if the oxygen concentration exceeds 10%. The mill shall demonstrate that oxygen concentrations are below noted values or furnish oxygen levels and corrected pollutant data.

(41) “Tempering Oven” means any facility used to bake hardboard following an oil treatment process.

(42) “Sulfite Mill” or “Mill” means a pulp mill producing cellulose pulp using a cooking liquor consisting of sulfurous acid and/or a bisulfite salt.

(43) “Sulfur Oxides” means sulfur dioxide, sulfur trioxide, and other sulfur oxides.

~~(44) “Total Reduced Sulfur (TRS)” means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H₂S).~~

(45) “Veneer” means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(46) “Wigwam Waste Burner” means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for incineration of wastes.

(47) “Wood Fired Veneer Dryer” means a veneer dryer which is directly heated by the products of combustion of wood fuel in addition to or exclusive of steam or natural gas or propane combustion.
State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

WIGWAM WASTE BURNERS

340-234-0100 Wigwam Waste Burners

(1) Operation of wigwam waste burners is prohibited.

(2) Emissions from wigwam waste burners included in a source’s netting basis as of October 18, 2007 shall not be subtracted from the netting basis, except as provided in OAR 340-222-0045.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

340-234-0140 Existing Administrative Agency Orders

The provisions of OAR 340-234-0100 supersede any specific existing agency orders directed against specific parties or persons to abate air pollution.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

KRAFT PULP MILLS

340-234-0200 Statement of Policy and Applicability

(1) Policy. Recent technological developments have enhanced the degree of malodorous emission control possible for the kraft pulping process. While recognizing that complete malodorous and particulate emission control is not presently possible, consistent with the meteorological and geographical conditions in Oregon, it is hereby declared to be the policy of the Department to:

(a) Require, in accordance with a specific program and time table for all sources at each operating mill, the highest and best practicable treatment and control of atmospheric emissions from kraft mills through the utilization of technically feasible equipment, devices, and procedures. Consideration will be given to the economic life of equipment, which when installed, complied with the highest and best practicable treatment requirement.

(b) Require degrees and methods of treatment for major and minor emission points that will minimize emissions of odorous gases and eliminate ambient odor nuisances.

(c) Require effective monitoring and reporting of emissions and reporting of other data pertinent to air quality or emissions. The Department will use these data in conjunction with ambient air data and observation of conditions in the surrounding area to develop and revise emission and ambient air standards, and to determine compliance therewith.

(d) Encourage and assist the kraft pulping industry to conduct a research and technological development program designed to progressively reduce kraft mill emissions, in accordance with a definite program, including specified objectives and time schedules.

(2) Applicability. OAR 340-234-0200 through 340-234-0270 apply to existing and new kraft pulp mills.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0210 Emission Limitations

(1) Emission of Total Reduced Sulfur (TRS):

(a) Recovery Furnaces:

(A) The emissions of TRS from each recovery furnace placed in operation before January 1, 1969, shall not exceed 10 ppm and 0.15 Kg/metric ton (0.30 lb./ton) of production as daily arithmetic averages;

(B) TRS emissions from each recovery furnace placed in operation after January 1, 1969, and before September 25, 1976, or any recovery furnace modified significantly after January 1, 1969, and before September 25, 1976, to expand production shall be controlled such that the emissions of TRS shall not exceed 5 ppm and 0.075 Kg/metric ton (0.150 lb./ton) of production as daily arithmetic averages.

(b) Lime Kilns. Lime kilns shall be operated and controlled such that emissions of TRS shall not exceed 20 ppm as a daily arithmetic average and 0.05 Kg/metric ton (0.10 lb./ton) of production as a daily arithmetic average. This subsection applies to those sources where construction was initiated prior to September 25, 1976;

(c) Smelt Dissolving Tanks. TRS emissions from each smelt dissolving tank shall not exceed 0.0165 gram/Kg BLS(0.033 lb./ton BLS) as a daily arithmetic average.

;

(d) Non-Condensables. Non-condensables from digesters, multiple-effect evaporators and contaminated condensate stripping shall be continuously treated to destroy TRS gases by thermal incineration in a lime kiln or incineration device capable of subjecting the non-condensibles to a temperature of not less than 650° C. (1,200° F.) for not less than 0.3 second. An alternate device meeting the above requirements shall be available in the event adequate incineration in the primary device cannot be accomplished. Venting of TRS gases during changeover shall be minimized but in no case shall the time exceed one hour;

(e) Other Sources:

(A) The total emission of TRS from other sources shall not exceed 0.078 Kg/metric ton (0.156 lb./ton) of production as a daily arithmetic average;

(B) Miscellaneous Sources and Practices. If it is determined that sewers, drains, and anaerobic lagoons significantly contribute to an odor problem, a program for control shall be required.

(2) Particulate Matter:

(a) Recovery Furnaces. The emissions of particulate matter from each recovery furnace stack shall not exceed:

(A) 2.0 kilograms per metric ton (4.0 pounds per ton) of production as a daily arithmetic average;

(B) 0.30 gram per dry standard cubic meter (0.13 grain per dry standard cubic foot) as a daily arithmetic average; and

(C) Thirty-five percent opacity for a period or periods aggregating more than 30 minutes in any 180 consecutive minutes or more than 60 minutes in any 24 consecutive hours (excluding periods when the facility is not operating).

(b) Lime Kilns. The emissions of particulate matter from each lime kiln stack shall not exceed:

(A) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average;

(B) 0.46 gram per dry standard cubic meter (0.20 grain per dry standard cubic foot) as a daily arithmetic average; and

(C) The visible emission limitations in section (4) of this rule.

(c) Smelt Dissolving Tanks. The emission of particulate matter from each smelt dissolving tank vent shall not exceed:

(A) A daily arithmetic average of 0.25 kilogram per metric ton (0.50 pound per ton) of production; and

(B) The visible emission limitations in section (4) of this rule.

(d) Replacement or Significant Upgrading of existing particulate pollution control equipment after July 1, 1988 shall result in more restrictive standards as follows:

(A) Recovery Furnaces:

(i) The emission of particulate matter from each affected recovery furnace stack shall not exceed 1.00 kilogram per metric ton (2.00 pounds per ton) of production as a daily arithmetic average; and

(ii) 0.10 gram per dry standard cubic meter (0.044 grain per dry standard cubic foot) as a daily arithmetic average.

(B) Lime Kilns:

(i) The emission of particulate matter from each affected lime kiln stack shall not exceed 0.25 kilogram per metric ton (0.50 pound per ton) of production as a daily arithmetic average; and

(ii) 0.15 gram per dry standard cubic meter (0.067 grain per dry standard cubic foot) as a daily arithmetic average when burning gaseous fossil fuel; or

(iii) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average; and

(iv) 0.30 gram per dry standard cubic meter (0.13 grain per dry standard cubic foot) as a daily arithmetic average when burning liquid fossil fuel.

(C) Smelt Dissolving Tanks. The emissions of particulate matter from each smelt dissolving tank vent shall not exceed 0.15 kilogram per metric ton (0.30 pound per ton) of production as a daily arithmetic average.

(3) Sulfur Dioxide (SO₂). Emissions of sulfur dioxide from each recovery furnace stack shall not exceed a three-hour arithmetic average of 300 ppm on a dry-gas basis except when burning fuel oil. The sulfur content of fuel oil used shall not exceed the sulfur content of residual and distillate oil established in OAR 340-228-0100 and 340-228-0110, respectively.

(4) All kraft mill sources with the exception of recovery furnaces shall not exceed an opacity equal to or greater than 20 percent for a period exceeding three minutes in any one hour.

(5) New Source Performance Standards. New or modified sources that commenced construction after September 24, 1976, are subject to each provision of this rule and the New Source Performance Standards, 40 CFR 60 subpart BB as adopted under OAR 340-238-0060, whichever is more stringent.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

340-234-0220 More Restrictive Emission Limits

The Department may establish more restrictive emission limits than the numerical emission standards contained in OAR 340-234-0210 and maximum allowable daily mill site emission limits in kilograms or pounds per day for an individual mill upon a finding by the Department that:

(1) The individual mill is located or is proposed to be located in a special problem area or an area where ambient air standards are exceeded or are projected to be exceeded or where the emissions will have a significant air quality impact in an area where the standards are exceeded; or

(2) An odor or nuisance problem has been documented at any mill, in which case the TRS emission limits may be reduced below the regulatory limits; or

(3) Other rules which are more stringent apply.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0240 Monitoring

~~(1) Total Reduced Sulfur (TRS). Each mill shall continuously monitor TRS in accordance with the following:~~

~~(a) The monitoring equipment shall determine compliance with the emission limits and reporting requirements established by OAR 340-234-0200 through 340-234-0270, and shall continuously sample and record concentrations of TRS;~~

~~(b) The sources monitored shall include, but are not limited to individual recovery furnaces, and lime kilns. All sources shall be monitored down stream of their respective control equipment, in either the ductwork or the stack, in accordance with the Department **Continuous Monitoring Manual**;~~

~~(c) Unless otherwise authorized or required by permit, at least once per year, vents from other sources as required in OAR 340-234-0210(1)(e), Other Sources, shall be sampled to demonstrate the representativeness of the emission of TRS using EPA Method 16, 16A, 16B or continuous emission monitors. EPA methods shall consist of three separate consecutive runs of one hour each in accordance with the Department **Source Sampling Manual**. Continuous emissions monitors shall be operated for three consecutive hours in accordance with the Department **Continuous Monitoring Manual**. All results shall be reported to the Department;~~

~~(d) Smelt dissolving tank vents shall be sampled for TRS quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.0124 gram/Kg BLS (0.025 lb./ton BLS) using EPA Method 16, 16A, 16B or continuous emission monitors. EPA methods shall consist of three separate consecutive runs of one hour each in accordance with the Department **Source Sampling Manual**.~~

(2) Particulate Matter:

(a) Each mill shall sample the recovery furnace(s), lime kiln(s) and smelt dissolving tank vent(s) for particulate emissions in accordance with the Department **Source Sampling Manual**;

(b) Each mill shall provide continuous monitoring of opacity of emissions discharged to the atmosphere from each recovery furnace stack in accordance with the Department **Continuous Monitoring Manual**;

(c) Recovery furnace particulate source tests shall be performed quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.225 gram/dscm (0.097 grain/dscf) for furnaces subject to OAR 340-234-0210(2)(a) or 0.075 gram/dscm (0.033 grain/dscf) for furnaces subject to OAR 340-234-0210(2)(d)(A);

(d) Lime kiln source tests shall be performed semi-annually;

(e) Smelt dissolving tank vent source tests shall be performed quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.187 kilogram per metric ton (0.375 pound per ton) of production.

(3) Sulfur Dioxide (SO₂). Representative sulfur dioxide emissions from each recovery furnace shall be determined at least once each month by the average of three one-hour source tests in accordance with the Department **Source Sampling Manual** or from continuous emission monitors. If continuous emission monitors are used, the monitors shall be operated for three consecutive hours in accordance with the Department **Continuous Monitoring Manual**.

(4) Combined Monitoring. The Department may allow the monitoring for opacity of a combination of more than one emission stream if each individual emission stream has been demonstrated with the exception of opacity to be in compliance with all the emission limits of OAR 340-234-0210. The Department may establish more stringent emission limits for the combined emission stream.

(5) New Source Performance Standards Monitoring. New or modified sources that are subject to the New Source Performance Standards, 40 CFR Part 60, Subpart BB, shall conduct monitoring or source testing as required by Subpart BB. In addition, when it is more stringent than Subpart BB, the Department may require some or all of the relevant monitoring in this section.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

340-234-0250 Reporting

If required by the Department or by permit, data shall be reported by each mill for each calendar month by the last day of the subsequent calendar month as follows:

~~(1) Applicable daily average emissions of TRS gases expressed in parts per million of H₂S on a dry gas basis with oxygen concentrations, if oxygen corrections are required, for each source included in the approved monitoring program.~~

~~(2) Daily average emissions of TRS gases in pounds of total reduced sulfur per equivalent ton of pulp processed, expressed as H₂S, for each source included in the approved monitoring program.~~

(3) Maximum daily three-hour average emission of SO₂ based on all samples collected in one sampling period from the recovery furnace(s), expressed as ppm, dry basis.

(4) All daily average opacities for each recovery furnace stack where transmissometers are utilized.

(5) All six-minute average opacities from each recovery furnace stack that exceeds 35 percent.

(6) Daily average kilograms of particulate per equivalent metric ton (pounds of particulate per equivalent ton) of pulp produced for each recovery furnace stack. Where transmissometers are not feasible, the mass emission rate shall be determined by alternative sampling approved by the department.

(7) Unless otherwise approved in writing, all periods of non-condensable gas bypass shall be reported.

(8) Each kraft mill shall furnish, upon request of the Department, such other pertinent data as the Department may require to evaluate the mill's emission control program.

(9) Monitoring data reported shall reflect actual observed levels corrected for oxygen, if required, and analyzer calibration.

(10) Oxygen concentrations used to correct pollutant data shall reflect oxygen concentrations at the point of measurement of pollutants.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

340-234-0270 Chronic Upset Conditions

If the Department determines that an upset condition is chronic and correctable by installing new or modified process or control procedures or equipment, a program and schedule to effectively eliminate the deficiencies causing the upset conditions shall be submitted. Such reoccurring upset conditions causing emissions in excess of applicable limits may be subject to civil penalty or other appropriate action.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

NEUTRAL SULFITE SEMI-CHEMICAL (NSSC) PULP MILLS

340-234-0300 Applicability

OAR 340-234-0300 through 340-234-360 apply to existing and new neutral sulfite semi-chemical (NSSC) pulp mills.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0310 Emission Limitations

~~(1) Emission of Total Reduced Sulfur (TRS): Spent Liquor Incinerator. The emissions of TRS from any spent liquor incinerator stack shall not exceed 10 ppm and 0.07 gram/kg BLS (0.14 lb/ton BLS) as a daily arithmetic average.~~

(2) Particulate Matter: Spent Liquor Incinerator. The emissions of particulate matter from any spent liquor incinerator stack shall not exceed:

(a) 3.6 grams/kg BLS (7.2 lbs/ton BLS) as a daily arithmetic average in accordance with the Department **Source Sampling Manual**; and

(b) An opacity equal to or greater than 35 percent for a period exceeding 3 minutes in any one hour, excluding periods when the facility is not operating.

(3) Sulfur Dioxide (SO₂):

(a) Spent Liquor Incinerator. The emissions of sulfur dioxide from each spent liquor incinerator stack shall not exceed a 3-hr arithmetic average of 10 ppm on a dry gas basis;

(b) Acid Absorption Tower. The emissions of sulfur dioxide from the acid absorption tower stack shall not exceed 20 ppm as a 3-hr arithmetic average on a dry gas basis.

(4) All NSSC sources, with the exception of spent liquor incinerators, shall not exhibit an opacity equal to or greater than 20 percent for a period exceeding three (3) minutes in any one hour.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0320 More Restrictive Emission Limits

The Department may establish more restrictive emission limits than the numerical emission standards contained in OAR 340-234-0310 and maximum allowable daily mill site emission limits in kilograms or pounds per day, for an individual mill, upon a finding by the Department that:

(1) The individual mill is located or is proposed to be located in a special problem area or an area where ambient air standards are exceeded or are projected to be exceeded; or

~~(2) When an odor or nuisance problem has been documented at any mill the TRS emission limits may be reduced below the regulatory limits; or~~

(3) Other rules which are more stringent apply.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0330 Plans and Specifications

Prior to construction of new neutral sulfite semi-chemical (NSSC) pulp mills or modification of facilities affecting emissions at existing NSSC mills, complete and detailed engineering plans and specifications for air pollution control devices and facilities and such data as may be required to evaluate projected emissions and potential effects on air quality shall be submitted to and approved by the Department. All construction shall be in accordance with plans as approved in writing by the Department.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0340 Monitoring

(1) General:

(a) The details of the monitoring program for each mill shall be submitted to and approved by the Department. This submittal shall include diagrams and descriptions of all monitoring systems, monitoring frequencies, calibration schedules, descriptions of all sampling sites, data reporting formats and duration of maintenance of all data and reports. Any changes that are subsequently made in the approved monitoring program shall be submitted in writing to the Department for review and approved in writing prior to change;

(b) All records associated with the approved monitoring program including, but not limited to, original data sheets, charts, calculations, calibration data, production records and final reports shall be maintained for a period of at least two calendar years and shall be furnished to the Department upon request.

~~(2) (a) Total Reduced Sulfur (TRS). Each mill shall continuously monitor the spent liquor incinerator for TRS emissions using: continuous monitoring equipment, except where a vibration problem, which was in existence on March 26, 1989, exists and continuous monitoring equipment is not practical or economically feasible; in which case, upon documentation of the above condition, the spent liquor incinerator shall be sampled for TRS emissions using the reference method and the analytical method (EPA Method 16, 16A, or 16B) as outlined in the Department **Source Sampling Manual**;~~

~~(b) Spent liquor incinerator TRS source tests shall be performed quarterly except that testing may be semi-annual when the preceding six (6) source tests were less than 7.5 ppm;~~

~~(c) Flow rate measurements used to determine TRS mass emission rates shall be corrected for cyclonic flow, where applicable.~~

(3) (a) Particulate Matter. Each mill shall sample the spent liquor incinerator for particulate emissions with:

(A) The sampling method; and

(B) The analytical method specified in the Department **Source Sampling Manual**.

(b) Spent liquor incinerator particulate source tests shall be performed quarterly except that testing may be semi-annual when the preceding six (6) source tests were less than 2.7 grams/kg BLS (5.4 lbs./ton BLS). All sampling data shall be corrected for cyclonic flow, where applicable;

(c) Each mill shall provide continuous monitoring of opacity of emissions discharged to the atmosphere from the spent liquor incinerator, and the acid plant in accordance with the **Department Continuous Monitoring Manual**; except that when continuous monitoring of opacity is not feasible due to excessive moisture then EPA Method 9 shall be used for the determination of opacity.

(4) Sulfur Dioxide (SO₂). Representative sulfur dioxide emissions from spent liquor incinerators and from the acid absorption tower shall be determined at least once every six (6) months with:

(a) The sampling method; and

(b) The analytical method specified in the **Department Source Sampling Manual**.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0350 Reporting

Unless otherwise authorized by permit, data shall be reported by each mill for each sampling period by the 15th day of the first month following the applicable sampling period as follows:

~~(1) Daily average emissions of TRS gases in kilograms of total reduced sulfur per metric ton (pounds of total reduced sulfur per ton) of black liquor solids expressed as H₂S based on all samples collected in one sampling period from the spent liquor incinerator.~~

(2) Daily average emissions of particulate in kilograms per metric ton (pounds per ton) of black liquor solids based on all samples collected in one sampling period from the spent liquor incinerator.

(3) Daily average concentration of sulfur dioxide in ppm for each source included in the approved monitoring program based on all samples collected in any one sampling period.

- (4) Daily average amount of virgin air-dried unbleached NSSC pulp produced expressed as air dried metric tons per day (air dried tons per day).
- (5) Daily average amount of black liquor solids, dry weight, fired in the spent liquor incinerator during periods of operation.
- (6) Upset conditions shall be reported in accordance with OAR 340-234-0360(3).
- (7) Each mill shall furnish, upon request of the Department, such other pertinent data as the Department may require to evaluate the mills emission control program.
- (8) The Department shall be notified at least 15 days in advance of all scheduled reference method testing including all scheduled changes.
- (9) Data reported shall reflect actual observed levels.
State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0360 Upset Conditions

- (1) Each mill shall report abnormal mill operations to the Department including control and process equipment maintenance, or unexpected upsets that result in emissions in excess of the regulatory or air containment discharge permit limits within one hour, or when conditions prevent prompt notification, as soon as possible but no later than one hour after the start of the next working day. The mill shall also take immediate corrective action to reduce emission levels to regulatory or permit levels.
- (2) Upsets shall be reported in writing with an accompanying report on measures taken or to be taken to correct the condition and prevent its reoccurrence within five working days of each incident.
- (3) Each mill shall report the cumulative duration in hours each month of the upsets reported in section (1) of this rule and classified as to:

(a) Spent Liquor Incinerator:

- ~~(A) TRS;~~
- (B) Particulate;
- (C) SO₂;
- (D) Opacity.

(b) Acid Absorption Tower:

- (A) SO₂;
- (B) Opacity.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

SULFITE PULP MILLS

340-234-0400 Statement of Policy and Applicability

- (1) Policy. It is the policy of the Commission:

(a) To require, in accordance with a specific program and timetable for each operating mill, the highest and best practicable treatment and control of emissions from sulfite mills through the utilization of technically feasible equipment, devices, and procedures.

(b) To require the evaluation of improved and effective measuring techniques for sulfur oxides, total reduced sulfur, particulates, and other emissions from sulfite mills.

(c) To require effective measuring and reporting of emissions and reporting of other data pertinent to emissions. The Department will use these data in conjunction with ambient air data and observation of conditions in the surrounding area to develop and revise emission standards and air quality standards, and to determine compliance therewith.

(d) To encourage and assist the sulfite pulping industry to conduct a research and technological development program designed to progressively reduce sulfite mill emissions, in accordance with a definite program with specific objectives.

(e) To establish standards deemed to be technically feasible, reasonably attainable, and necessary for the attaining of satisfactory air quality with the intent of revising the standards as new information and better technology are developed.

(2) Applicability. OAR 340-234-0400 through 340-234-0430 apply to existing and new sulfite pulp mills.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0410 Minimum Emission Standards

(1) Notwithstanding the specific emission limits set forth in this rule, the Department of Environmental Quality may, after notice and hearing, establish more restrictive emission limits and compliance schedules for mills located in recognized problem areas, for new mills, for mills expanding existing facilities, for mills installing substantial modifications of existing facilities which result in increased emissions; or for mills in areas where it is shown ambient air standards are exceeded.

(2) The total average daily emissions from a sulfite pulp mill shall not exceed 20 pounds of sulfur dioxide per ton of air dried unbleached pulp produced and in addition:

(a) The blow system emissions shall not exceed 0.2 pounds of sulfur dioxide per minute per ton of unbleached pulp (charged to digester) on a 15 minute average;

(b) Emissions from the recovery system, acid plant, and other sources shall not exceed 800 ppm of sulfur dioxide as an hourly average.

(3) Mills of less than 110 tons of air dried unbleached pulp per day may be exempted from the limitations of section (2) of this rule provided that a minimum of 80 percent collection efficiency for sulphur dioxide (SO₂) is maintained.

(4) The total emission of particulate matter from the recovery furnace stacks shall not exceed four pounds per air dried ton of unbleached pulp produced.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0420 Monitoring and Reporting

(1) Each mill shall maintain a Department approved detailed sampling and testing program.

(2) The monitoring equipment shall be capable of determining compliance with the emission limits established by OAR 340-234-0400 through 340-234-0430, and shall be capable of continual sampling and recording of concentrations of sulfur dioxide contaminants from the recovery system. Unless otherwise approved in writing, compliance shall be determined by EPA Method 6 which is contained in the Department **Source Sampling Manual**.

(3) Each mill shall sample the recovery system, blow system, and acid plant for sulfur dioxide emissions on a regularly scheduled basis.

(4) Each mill shall sample the recovery furnace stacks for particulate on a regularly scheduled basis. Unless otherwise approved in writing, compliance shall be determined by EPA Method 5 (front half only) which is contained in the Department **Source Sampling Manual**.

(5) Unless otherwise authorized, data shall be reported by each mill at the end of each calendar month as follows:

(a) Average daily emissions of sulfur dioxides expressed as pounds of sulfur dioxide per ton of pulp produced from the blow system, recovery system, and acid plant;

(b) The daily average and peak concentrations of sulfur dioxides expressed in pounds per hour and expressed in ppm of sulfur dioxide and the number of hours each day that the concentration exceeds 500 ppm;

(c) The average daily production of unbleached pulp and the maximum daily production.

(6) Each mill shall furnish upon request of the Department, such other pertinent data as the Department may require to evaluate the mill's emission control program. Unless otherwise prescribed, each mill shall report immediately to the Department abnormal mill operations which adversely affect the emission of air contaminants.

(7) All measurements shall be made in accordance with techniques approved by the Department.
State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-234-0430 Exceptions

OAR 340-234-0400 through 340-234-0430 do not apply to open burning or power boiler operations conducted at sulfite pulp mills unless such boilers are an integral part of the sulfite process or recovery system.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

BOARD PRODUCTS INDUSTRIES (VENEER, PLYWOOD, PARTICLEBOARD, HARDBOARD)

340-234-0500 Applicability and General Provisions

(1) OAR 340-234-0500 through 340-234-0530 establish minimum performance and emission standards for veneer, plywood, particleboard, and hardboard manufacturing operations.

(2) Emission limitations established herein are in addition to, and not in lieu of, general emission standards for visible emissions, fuel burning equipment, and refuse burning equipment, except as provided for in OAR 340-234-0510.

(3) Each affected veneer, plywood, particleboard, and hardboard plant shall proceed with a progressive and timely program of air pollution control. Each plant shall at the request of the Department submit periodic reports in such form and frequency as directed to demonstrate the progress being made toward full compliance with OAR 340-234-0500 through 340-234-0530.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

340-234-0510 Veneer and Plywood Manufacturing Operations

(1) Veneer Dryers:

(a) Consistent with OAR 340-2340-500(1) through (4), it is the object of this section to control air contaminant emissions, including, but not limited to, condensable hydrocarbons such that visible emissions from each veneer dryer are limited to a level which does not cause a characteristic "blue haze" to be observable;

(b) No person shall operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:

(A) An average operating opacity of ten percent; and

(B) A maximum opacity of 20 percent.

(c) Particulate emissions from wood fired veneer dryers shall not exceed:

(A) 0.75 pounds per 1,000 square feet of veneer dried (3/8 inch basis) for units using fuel which has a moisture content by weight of 20 percent or less;

(B) 1.50 pounds per 1,000 square feet of veneer dried (3/8 inch basis) for units using fuel which has a moisture content by weight of greater than 20 percent;

(C) In addition to paragraphs (1)(c)(A) and (B) of this rule, 0.40 pounds per 1,000 pounds of steam generated in boilers which exhaust gases to the veneer dryer.

(d) Exhaust gases from fuel-burning equipment vented to the veneer dryer are exempt from OAR 340-228-0210;

(e) Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants are kept at the lowest practicable levels;

(f) No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule;

(g) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling, and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air;

(h) The Department may require more restrictive emission limits than provided in subsections (1)(b) and (c) of this rule for an individual plant upon a finding by the Commission that the individual plant is located or is proposed to be located in a special problem area. The more restrictive emission limits for special problem areas may be established on the basis of allowable

emissions expressed in opacity, pounds per hour, or total maximum daily emissions to the atmosphere, or a combination thereof.

(2) Other Emission Sources:

(a) The combined particulate emissions from veneer and plywood mill sources, including, but not limited to, sanding machines, saws, presses, barkers, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, and truck loading and unloading facilities must not exceed a plant specific average hourly emission rate (lbs/hr) determined by multiplying the plant production capacity by one pound per 1,000 square feet. The plant production capacity is the maximum production in terms of 1,000 square feet on a 3/8 inch basis of finished product for a typical operating shift divided by the number of hours in the operating shift.

(b) Excepted from subsection (2)(a) of this rule are veneer dryers, fuel burning equipment, and refuse burning equipment.

(c) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.

(3) Monitoring and Reporting: The Department may require any veneer dryer facility to establish an effective program for monitoring the visible air contaminant emissions from each veneer dryer emission point. The program shall be subject to review and approval by the Department and shall consist of the following:

(a) A specified minimum frequency for performing visual opacity determinations on each veneer dryer emission point;

(b) All data obtained shall be recorded on copies of a “Veneer Dryer Visual Emissions Monitoring Form” which shall be provided by the Department of Environmental Quality or on an alternative form which is approved by the Department; and

(c) A specified period during which all records shall be maintained at the mill site for inspection by authorized representatives of the Department.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

340-234-0520 Particleboard Manufacturing Operations

(1) Truck Dump and Storage Areas:

(a) Every person operating or intending to operate a particleboard manufacturing plant shall cause all truck dump and storage areas holding or intended to hold raw materials to be enclosed to prevent windblown particle emissions from these areas from being deposited upon property not under the ownership of said person;

(b) The temporary storage of raw materials outside the regularly used areas of the plant site is prohibited unless the person who desires to temporarily store such raw materials first notifies the Department of Environmental Quality and receives written approval for said storage:

(A) When authorized by the Department of Environment Quality, temporary storage areas shall be operated to prevent windblown particulate emissions from being deposited upon property not under the ownership of the person storing the raw materials;

(B) Any temporary storage areas authorized by the Department shall not be operated in excess of six (6) months from the date they are first authorized.

(c) Any person who proposes to control windblown particulate emissions from truck dump storage areas other than by enclosure shall apply to the Department for written authorization to utilize alternative controls. The application shall describe in detail the plan proposed to control windblown particulate emissions and indicate on a plot plan the nearest location of property not under ownership of the applicant.

(2) Other Emission Sources:

(a) The combined particulate emissions from particleboard plant sources including, but not limited to, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, particle dryers, classifiers, presses, sanding machines, and materials handling systems must not exceed a plant specific average hourly emission rate (lbs/hr) determined by multiplying the plant production capacity by three pounds per 1000 square feet. The plant production capacity is the maximum production in terms of 1,000 square feet on a 3/4 inch basis of finished product for a typical operating shift divided by the number of hours in the operating shift.

(b) Excepted from subsection (2)(a) of this rule are truck dump and storage areas, fuel burning equipment, and refuse burning equipment.

(c) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

340-234-0530 Hardboard Manufacturing Operations

(1) Truck Dump and Storage Areas:

(a) Every person operating or intending to operate a hardboard manufacturing plant shall cause all truck dump and storage areas holding or intended to hold raw materials to be enclosed to prevent windblown particle emissions from these areas from being deposited upon property not under the ownership of said person;

(b) The temporary storage of raw materials outside the regularly used areas of the plant site is prohibited unless the person who desires to temporarily store such raw materials first notifies the Department of Environmental Quality and receives written approval:

(A) When authorized by the Department of Environmental Quality, temporary storage areas shall be operated to prevent windblown particulate emissions from being deposited upon property not under the ownership of the person storing the raw materials;

(B) Any temporary storage areas authorized by the Department shall not be operated in excess of six (6) months from the date they are first authorized.

(c) Alternative Means of Control. Any person who desires to control windblown particulate emissions from truck dump and storage areas other than by enclosure shall first apply to the Department for written authorization to utilize alternative controls. The application shall describe in detail the plan proposed to control windblown particulate emissions and indicate on a plot plan the nearest location of property not under ownership of the applicant.

(2) Other Emission Sources:

(a) For hardboard plants that did not exist during the baseline period, the combined particulate emissions from all emissions sources at the plant must not exceed a plant specific hourly average emission rate (lbs/hr) determined by multiplying the plant production capacity by one pound per 1,000 square feet of production. The plant production capacity is the maximum production in terms of 1,000 square feet on a 1/8 inch finished bases for a typical operating shift divided by the number of hours in the operating shift.

(b) For hardboard plant that existed during the baseline period the combined particulate emissions from the plan must not exceed the lesser of:

(A) A plant specific hourly average emission rate (lbs/hr) determined by multiplying the plant production capacity by two pounds per 1,000 square feet of production. The plant production capacity is the maximum production in terms of 1,000 square feet on a 1/8 inch finished basis for a typical operating shift divided by the number of hours in the operating shift, or

(B) The sum of the baseline emissions rate (lbs/hr) of the press/cooling vent and the lesser of:

(i) The baseline emissions rate (lbs/hr) from all sources at the plant, excluding the press/cooling vents; or

(ii) A plant specific hourly average emission rate (lbs/hr) determined by multiplying the plant production capacity by one pound per 1,000 square feet of production. The plant production capacity is the maximum production in terms of 1,000 square feet on a 1/8 inch finished basis for a typical operating shift divided by the number of hours in the operating shift.

(c) Excepted from subsections (a) and (b) of this section are truck dump and storage areas, fuel burning equipment, and refuse burning equipment.

(d) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.

(3) Emissions from Hardboard Tempering Ovens:

(a) No person shall operate any hardboard tempering oven unless all gases and vapors emitted from said oven are treated in a fume incinerator capable of raising the temperature of said gases and vapors to at least 1500° F. for 0.3 seconds or longer;

(b) Specific operating temperatures lower than 1500° F. may be approved by the Department upon application, provided that information is supplied to show that operation of said temperatures provides sufficient treatment to prevent odors from being perceived on property not under the ownership of the person operating the hardboard plant;

(c) In no case shall fume incinerators installed pursuant to this section be operated at temperatures less than 1000° F.;

(d) Any person who proposes to control emissions from hardboard tempering ovens by means other than fume incineration shall apply to the Department for written authorization to utilize alternative controls. The application shall describe in detail the plan proposed to control odorous emissions and indicate on a plot plan the location of the nearest property not under ownership of

the applicant.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

DIVISION 236

EMISSION STANDARDS FOR SPECIFIC INDUSTRIES

340-236-0010 Definitions

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

(1) "All Sources" means:

(a) as used in OAR 340-236-0100 through 340-236-0150 sources including, but not limited to, the reduction process, alumina plant, anode plant, anode baking plant, cast house, and collection, treatment, and recovery systems. Except for the purposes of 340-236-0120(1)(c) and (3)(d), "all sources" does not include sources of fugitive emissions;

(b) as used in OAR 340-236-0200 through 340-236-0230 all equipment, structures, processes, and procedures directly related to or involved in the production of ferronickel from laterite ore excluding open storage areas and mining activities.

(2) "Annual Average" means the arithmetic average of the monthly averages reported to the Department during the twelve most recent consecutive months.

(3) "Anode Baking Plant" means the heating and sintering of pressed anode blocks in oven-like devices, including the loading and unloading of the oven-like devices.

(4) "Anode Plant" means all operations directly associated with the preparation of anode carbon except the anode baking operation.

(5) "Average Dry Laterite Ore Production Rate" means the average amount of dry laterite ore produced per hour based upon annual production records.

(6) "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of material collected to total weight input to the collector.

(7) "Commission" means Environmental Quality Commission.

(8) "Cured Forage" means hay, straw, ensilage that is consumed or is intended to be consumed by livestock.

(9) "Department" means Department of Environmental Quality.

(10) "Dusts" means minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, or sweeping.

- (11) "Dry Laterite Ore" means laterite ore free of uncombined water or as it is discharged from an ore drying equipment or process.
- (12) "Emission" means a release into the outdoor atmosphere of air contaminants.
- (13) "Emission Standards" means the limitation on the release of contaminant or multiple contaminants to the ambient air.
- (14) "Ferronickel" means a metallic alloy containing about 50 percent nickel and 50 percent iron.
- (15) "Fluorides" means matter containing fluoride ion emitted to the ambient air as measured by EPA Method 13A or 13B and Method 14 in accordance with the Department's Source Sampling Manual or an equivalent test method approved in writing by the Department.
- (16) "Forage" means grasses, pasture, and other vegetation that is consumed or is intended to be consumed by livestock.
- (17) "Fugitive emissions" means emissions of any air contaminant that escapes to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.
- (18) "Hot Mix Asphalt Plants" means those facilities and equipment which convey or batch load proportioned quantities of cold aggregate to a drier, and heat, dry, screen, classify, measure, and mix the aggregate with asphalt for purposes of paving, construction, industrial, residential, or commercial use.
- (19) "Laterite Ore" means a red residual soil containing commercially valuable amounts of nickel, about one percent to two percent by weight.
- (20) "Monthly Average" means the summation of the arithmetic average of all representative test results obtained during any calendar month and the emission rates established for sources not subject to routine testing.
- (21) "Particulate Matter" means:
- (a) as used in OAR 340-236-0100 through 340-236-0150 a small discrete mass of solid or liquid matter, but not including uncombined water emitted to the ambient air as measured by EPA Method 5 in accordance with the Department's Source Sampling Manual.
- (b) as used in OAR 340-236-0200 through 340-236-0230 and 340-236-0400 through 340-236-0440 a small, discrete mass of solid or liquid matter, but not including uncombined water.
- (22) "Primary Aluminum Plant" means those plants, which will or do operate for the purpose of, or related to, producing aluminum metal from aluminum oxide (alumina).
- (23) "Portable Hot Mix Asphalt Plants" means those hot mix asphalt plants which are designed to be dismantled and are transported from one job site to another job site.
- (24) "Pot Line Primary Emission Control Systems" means the system which collects and removes contaminants prior to the emission point. If there is more than one such system, the primary system is that system which is most directly related to the aluminum reduction cell.
- (25) "Process Weight by Hour" means the total weight of all materials introduced into any specific

process which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. The “process weight per hour” will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

(26) "Regularly Scheduled Monitoring" means sampling and analyses in compliance with a program and schedule approved pursuant to OAR 340-236-0140.

(27) "Source test" means the average of at least three test runs conducted in accordance with the Department's Source Sampling Manual.

(28) "Standard Dry Cubic Foot of Gas" means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 P.S.I.A. and a temperature of 68° F. 340-025-0105

(29) “Special Control Areas” means an area designated in OAR 340-204-0070 and:

- (a) Any incorporated city or within six miles of the city limits of said incorporated city;
- (b) Any area of the state within one mile of any structure or building used for a residence;
- (c) Any area of the state within two miles straight line distance or air miles of any paved public road, highway, or freeway having a total of two or more traffic lanes.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

PRIMARY ALUMINUM STANDARDS

340-236-0100 Statement of Purpose

In furtherance of the public policy of the State as set forth in ORS 468A.010, it is hereby declared to be the purpose of the Commission in adopting the following regulations to:

- (1) Require, in accordance with a specific program and time table for each operating primary aluminum plant, the highest and best practicable collection, treatment, and control of atmospheric pollutants emitted from primary aluminum plants through the utilization of technically feasible equipment, devices, and procedures necessary to attain and maintain desired air quality.
- (2) Require effective monitoring and reporting of emissions, ambient air levels of fluorides, fluoride content of forage, and other pertinent data, The Department will use these data, in conjunction with observation of conditions in the surrounding areas, to develop emission and ambient air standards and to determine compliance therewith.
- (3) Encourage and assist the aluminum industry to conduct a research and technological development program designed to reduce emissions, in accordance with a definite program, including specified objectives and time schedules.
- (4) Establish standards which, based upon presently available technology, are reasonably attainable with the intent of revising the standards as needed when new information and better technology are developed.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-236-0110 Applicability

OAR 340-236-0100 through 340-236-0150 apply to existing and new primary aluminum plants.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-236-0120 Emission Standards

(1) The emissions from all sources at each primary aluminum plant constructed after January 1, 1973, shall be collected and treated as necessary so as not to exceed the following minimum requirements:

~~(a) Total fluoride emissions shall not exceed:~~

~~(A) A monthly average of 1.2 pounds of fluoride ion per ton of aluminum produced; and~~

~~(B) An annual average of 1.0 pound of fluoride ion per ton of aluminum produced; and~~

~~(C) 12.5 tons of fluoride ions per month from any single aluminum plant without prior written approval by the Department.~~

(b) The total of organic and inorganic particulate matter emissions shall not exceed:

(A) A monthly average of 7.0 pounds of particulate per ton of aluminum produced; and

(B) An annual average of 5.0 pounds of particulate per ton of aluminum produced.

(c) Visible emissions from any source shall not exceed ten-(10) percent opacity at any time.

(2) Each primary aluminum plant constructed and operated after January 1, 1973, shall be in full compliance with OAR 340-236-0100 through 340-236-0150 no later than 180 days after completing potroom start-up and shall maintain full compliance thereafter.

(3) The emissions from all sources at each primary aluminum plant constructed on or before January 1, 1973, shall be collected and treated as necessary so as not to exceed the following minimum requirements:

~~(a) Total fluoride emissions shall not exceed:~~

~~(A) A monthly average of 3.5 pounds of fluoride ion per ton of aluminum produced until one of the following compliance dates, upon which time this limit shall be rescinded and the total fluoride emission limits in 40 CFR 63.843 are effective:~~

~~(i) October 7, 1999 for an owner or operator of a plant built before September 26, 1996;~~

~~(ii) October 9, 2000 for a plant built before September 26, 1996, provided the owner or operator demonstrates to the satisfaction of the Department that additional time is needed to install or modify the emission control equipment;~~

~~(iii) October 8, 2001 for a plant built before September 26, 1996, that is granted an extension by the Department under section 112(i)(3)(B) of the Clean Air Act Amendments of 1990; or~~

~~(iv) Upon startup for an owner or operator of a plant built or modified after September 26, 1996; and~~

~~(B) An annual average of 2.5 pounds of fluoride ion per ton of aluminum produced.~~

(b) The total of organic and inorganic particulate matter emissions from all sources at plants using

vertical stud Soderberg cells shall not exceed:

(A) A monthly average of 13.0 pounds of particulate per ton of aluminum produced; and

(B) An annual average of 10.0 pounds of particulate per ton of aluminum produced.

(c) The total of organic and inorganic particulate matter emissions from all sources at plants using prebake cells shall not exceed:

(A) A monthly average of 15.6 pounds of particulate per ton of aluminum produced; and

(B) An annual average of 13.5 pounds of particulate per ton of aluminum produced.

(d) Visible emissions from any source shall not exceed 20 percent opacity at any time.

~~(e) In addition to the standards and requirements contained in OAR 340-236-0100 through OAR 340-236-0150, each primary aluminum plant shall be in full compliance with 40 CFR Part 63, Subpart LL, National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants as adopted under OAR 340-244-0220.~~

~~State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891~~

340-236-0130 Special Problem Areas

The Department may require more restrictive emission limits than the numerical emission standards contained in OAR 340-236-0120 for an individual plant upon a finding by the Commission that the individual plant is located, or is proposed to be located, in a special problem area. Such more restrictive emission limits for special problem areas may be established on the basis of allowable emissions per ton of aluminum produced or total maximum daily emissions to the atmosphere, or a combination thereof, and may be applied on a seasonal or year-round basis.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-236-0140 Monitoring

(1) Each primary aluminum plant constructed and operated on or before January 1, 1973, shall submit and conduct a detailed, effective monitoring program. The program shall include regularly scheduled monitoring and testing by the plant of emissions of gaseous and particulate fluorides and total particulates.

(a) Each plant shall test emissions from each operating potline once per calendar month except as allowed in subsection (b) of this section. A minimum of three (3) representative test runs shall be taken each month. All such testing shall include simultaneous sampling of control system(s) and/or roof vents unless otherwise authorized in writing by the Department. Anode bake oven control systems shall be tested at least once per month;

(b) Reduced sampling frequency in accordance with **40 CFR 63.848(e)** and emissions monitoring frequency for the pot line primary emission control system and the anode baking plant in accordance with **40 CFR 63.848(a)** and **(c)** may be approved by the Department upon the applicable compliance date in OAR 340-236-0120(3)(a)(A);

(c) All tests shall be taken on prespecified dates. A schedule for measurement of fluoride levels in forage for new plants and ambient air for new and existing plants shall be submitted. The Department shall establish a monitoring program for each plant which shall be placed in effective operation within ninety (90) days after written notice to the plant by the Department of the

established monitoring program.

(2) Each primary aluminum plant proposed to be constructed and operated after January 1, 1973 shall submit a detailed pre-construction and post-construction monitoring program as a part of the air contaminant discharge permit application.

(3) All monitoring methods used to demonstrate compliance with OAR 340-236-0100 through 340-236-0150, including sampling and analytical procedures, must be filed with and approved by the Department. Where applicable, methods in the Department Source Sampling Manual, including, but not limited to, EPA Methods 5 and 7 for particulates and Method 13A or 13B and Method 14 or Method 14A for fluorides or other alternative method in **40 CFR 63.849**, shall be used.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-236-0150 Reporting

(1) Unless otherwise authorized in writing by the Department, data for each source and station included in the approved monitoring program shall be reported by each primary aluminum plant within 30 days of the end of each calendar month as follows:

(a) Ambient air: 12-hour concentrations of gaseous fluoride in ambient air expressed in micrograms per cubic meter of air, and in parts per billion (ppb);

(b) Forage: Concentrations of fluoride in forage expressed in parts per million (ppm) of fluoride on a dried weight basis, if applicable;

(c) Particulate emissions: Results of all emission sampling conducted during the month for particulates, expressed in pounds per ton of aluminum produced. The method of calculating pounds per ton shall be as specified in the approved monitoring programs. Particulate data shall be reported as total particulates and percentage of fluoride ion contained therein;

~~(d) Gaseous emissions: Results of all sampling conducted during the month for gaseous fluorides. All results shall be expressed as fluoride ion in pounds of fluoride ion per ton of aluminum produced;~~

~~(e) Total fluoride: Results of all sampling conducted during the month for total fluoride. All results shall be expressed as fluoride ion in pounds of fluoride ion per ton of aluminum produced;~~

(f) Other emission and ambient air data as specified in the approved monitoring program;

(g) Changes in collection efficiency of any portion of the collection or control system that resulted from equipment or process changes.

(2) Each primary aluminum plant shall furnish, upon request of the Department, such other data as the Department may require to evaluate the plant's emission control program. Each primary aluminum plant shall report the value of each emission test performed during that reporting period, and shall also immediately report abnormal plant operations, which result in increased emission of air contaminants.

(3) No person shall construct, install, establish, or operate a primary aluminum plant without first applying for and obtaining an air contaminant discharge permit from the Department. Addition to, or enlargement or replacement of, a primary aluminum plant or any major alteration thereof shall be construed as construction, installation, or establishment.

LATERITE ORE PRODUCTION OF FERRONICKEL

340-236-0200 Statement of Purpose

In furtherance of the public policy of the State as set forth in ORS 468A.010, it is hereby declared to be the purpose of the Commission in adopting OAR 340-236-0200 through 340-236-0230 to:

- (1) Require, in accordance with a specific program and timetable, the highest and best practicable collection, treatment, and control of atmospheric pollutants through the utilization of technically feasible equipment, devices, and procedures necessary to attain and maintain desired air quality.
- (2) Establish standards which based upon presently available technology, are reasonably attainable with the intent of revising the standards as needed when new information and/or better technology are developed.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-236-0210 Applicability

OAR 340-236-0200 through 340-236-0230 apply to laterite ore production of ferronickel.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-236-0220 Emission Standards

- (1) No source shall have visible emissions in excess of 20 percent opacity, provided that where the presence of uncombined water is the only reason for failure of an emission to meet this requirement, such requirement shall not apply.
- (2) The total combined emission of particulate matter from all sources shall not exceed 3.5 pounds per ton of dry laterite ore produced, based upon the average dry laterite ore production rate.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-236-0230 Monitoring and Reporting

- (1) Emission testing shall be conducted by the industry using Department approved methods to determine compliance with this rule.
- (2) Abnormal operations which adversely affect the emission of air contaminants shall be reported to the Department within one-hour of the occurrence, or as soon as is reasonably possible.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

HOT MIX ASPHALT PLANTS

340-236-0400 Applicability

OAR 340-236-0400 through 340-236-0440 apply to hot mix asphalt plants.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-236-0410 Control Facilities Required

- (1) No person shall operate any hot mix asphalt plant, either portable or stationary, located within any area of the state outside special control areas unless all dusts and gaseous effluents generated by the plant are subjected to air cleaning device or devices having a particulate collection efficiency of at least 80 percent by weight.

(2) No person shall operate any hot mix asphalt plant, either portable or stationary located within any special control area of the state without installing and operating systems or processes for the control of particulate emissions so as to comply with the emission limits established by the process weight table, **Table 1**, attached herewith and by reference made a part of this rule. Hot mix asphalt plants are subject to the emission limitations in OAR 340-208-0110(2) and (3), and 340-226-0210, and 340-238-0060, as applicable.

State effective: 11/8/2007; EPA effective: 1/26/2012; 76 FR 80747

340-236-0420 Other Established Air Quality Limitations

The emission limits established under OAR 340-236-0400 through 340-236-0440 are in addition to visible emission and other ambient air standards, established or to be established by the Environmental Quality Commission unless otherwise provided by rule or regulation.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-236-0430 Portable Hot Mix Asphalt Plants

Portable hot mix asphalt plants may apply for air contaminant discharge permits within the area of Department jurisdiction without indicating specific site locations. As a condition of said permit, the permittee will be required to obtain approval from the Department for the air pollution controls to be installed at each site location or set-up at least ten days prior to operating at each site location or set-up.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-236-0440 Ancillary Sources of Emission - Housekeeping of Plant Facilities

(1) Ancillary air contamination sources from the plant and its facilities which emit air contaminants into the atmosphere such as, but not limited to, the drier openings, screening and classifying system, hot rock elevator, bins, hoppers, and pug mill mixer, shall be controlled at all times so as to maintain the highest possible level of air quality and the lowest possible discharge of air contaminants.

(2) The handling of aggregate and traffic shall be conducted at all times so as to minimize emissions into the atmosphere.

**TABLE I
(OAR 340-236-0410)
PROCESS WEIGHT TABLE**

<u>Process Wt/hr (lbs)</u>	<u>Maximum Weight Disch/hr (lbs)</u>	<u>Process Wt/hr (lbs)</u>	<u>Maximum Weight Disch/hr (lbs)</u>
50	.24	3400	5.44
100	.46	3500	5.52
150	.66	3600	5.61
200	.85	3700	5.69
250	1.03	3800	5.77
300	1.20	3900	5.85
350	1.35	4000	5.93
400	1.50	4100	6.01

450	1.63	4200	6.08
500	1.77	4300	6.15
550	1.89	4400	6.22
600	2.01	4500	6.30
650	2.12	4600	6.37
700	2.24	4700	6.45
750	2.34	4800	6.52
800	2.43	4900	6.60
850	2.53	5000	6.67
900	2.62	5500	7.03
950	2.72	6000	7.37
1000	2.80	6500	7.71
1100	2.97	7000	8.05
1200	3.12	7500	8.39
1300	3.26	8000	8.71
1400	3.40	8500	9.03
1500	3.54	9000	9.36
1600	3.66	9500	9.67
1700	3.79	10000	10.00
1800	3.91	11000	10.63
1900	4.03	12000	11.28
2000	4.14	13000	11.89
2100	4.24	14000	12.50
2200	4.34	15000	13.13
2300	4.44	16000	13.74
2400	4.55	17000	14.36
2500	4.64	18000	14.97
2600	4.74	19000	15.58
2700	4.84	20000	16.19
2800	4.92	30000	22.22
2900	5.02	40000	28.30
3000	5.10	50000	34.30
3100	5.18	60000	40.00
3200	5.27	or	
3300	5.36	more	

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

DIVISION 240

RULES FOR AREAS WITH UNIQUE AIR QUALITY NEEDS

340-240-0010 Purpose

The purpose of this division is to address the air quality control needs of the Medford-Ashland AQMA and Grants Pass UGB (OAR 340-240-0100 through 340-240-0270), the La Grande UGB (340-240-0300 through 340-240-0360, the Lakeview UGB (340-240-0400 through 340-240-0440), and the Klamath Falls Nonattainment Area (340-240-0500 through 340-240-0630).

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

State effective: 12/11/2012; EPA Effective: 8/25/2015; 80 FR 51470

340-240-0020 Emission Limitations

Emission limitations established herein and stated in terms of pounds per 1,000 square feet of production are to be computed on an hourly basis using the maximum 8 hour production capacity of the plant.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0030 Definitions

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

(1) "Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.

(2) "Air Conveying System" means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving airstream.

(3) "Average Operating Opacity" means the opacity of emissions determined using EPA Method 9 on any three days within a 12-month period which are separated from each other by at least 30 days; a violation of the average operating opacity limitation is judged to have occurred if the

opacity of emissions on each of the three days is greater than the specified average operating opacity limitation.

(4) "Charcoal Producing Plant" means an industrial operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.

(5) "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.

(6) "Department" means Department of Environmental Quality.

(7) "Design Criteria" means the numerical as well as verbal description of the basis of design, including but not necessarily limited to design flow rates, temperatures, humidities, contaminant descriptions in terms of types and chemical species, mass emission rates, concentrations, and specification of desired results in terms of final emission rates and concentrations, and scopes of vendor supplies and owner-supplied equipment and utilities, and a description of any operational controls.

(8) "Domestic Waste" means combustible household waste, other than wet garbage, such as paper, cardboard, leaves, yard clippings, wood, or similar materials generated in a dwelling housing four (4) families or less, or on the real property on which the dwelling is situated.

(9) "Dry Standard Cubic Foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions.

(10) "Emission" means a release into the outdoor atmosphere of air contaminants.

(11) "EPA Method 9" means the method for Visual Determination of the Opacity of Emissions From Stationary Sources described as Method (average of 24 consecutive observations) in the Department Source Sampling Manual (January, 1992).

(12) "Facility" means an identifiable piece of process equipment. A stationary source may be comprised of one or more pollutant-emitting facilities.

(13) "Fireplace" is defined in OAR 340-262-0450

(14) "Fuel Burning Equipment" means a device that burns a solid, liquid, or gaseous fuel, the principal purpose of which is to produce heat or power by indirect heat transfer. All stationary gas turbines are considered Fuel Burning Equipment. Marine installations and internal combustion engines are not considered Fuel Burning Equipment.

(15) "Fuel Moisture Content By Weight Greater Than 20 Percent" means bark, hogged wood waste, or other wood with an average moisture content of more than 20 percent by weight on a wet basis as used for fuel in the normal operation of a wood-fired veneer dryer as measured by ASTM D4442-84 during compliance source testing.

(16) "Fuel Moisture Content By Weight Less Than 20 Percent" means pulverized ply trim, sanderdust, or other wood with an average moisture content of 20 percent or less by weight on a wet basis as used for fuel in the normal operation of a wood-fired veneer dryer as measured by ASTM D4442-84 during compliance source testing.

(17) "Fugitive Emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.

(18) "Grants Pass Urban Growth Area" and "Grants Pass Area" means the area within the Grants Pass Urban Growth Boundary as shown on the Plan and Zoning Maps for the City of Grants Pass as of 1 February 1988.

(19) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(20) "Klamath Falls Nonattainment Area" means the area as defined in OAR 340-204-0010.

(21) "La Grande Urban Growth Area" means the area within the La Grande Urban Growth Boundary as shown on the Plan and Zoning Maps for the City of La Grande as of 1 October 1991.

(22) "Lakeview Urban Growth Area" means the area within the Lakeview Urban Growth Boundary as shown on the Plan and Zoning Maps for the Town of Lakeview as of 25 October 1993.

(23) "Liquefied petroleum gas" has the meaning given by the American Society for Testing and Materials in ASTM D1835-82, "Standard Specification for Liquid Petroleum Gases."

(24) "Lowest Achievable Emission Rate" or "LAER" is defined in OAR 340-200-0020.

(25) "Maximum Opacity" means the opacity as determined by EPA Method 9 (average of 24 consecutive observations).

(26) "Medford-Ashland Air Quality Maintenance Area" (AQMA) means the area defined as beginning at a point approximately two and quarter miles northeast of the town of Eagle Point, Jackson County, Oregon at the northeast corner of Section 36, Township 35 South, Range 1 West (T35S, R1W); thence South along the Willamette Meridian to the southeast corner of Section 25, T37S, R1W; thence southeast along a line to the southeast corner of Section 9, T39S, R2E; thence south-southeast along line to the southeast corner of Section 22, T39S, R2E; thence South to the southeast corner of Section 27, T39S, R2E; thence southwest along a line to the southeast corner of Section 33, T39S, R2E; thence West to the southwest corner of Section 31, T39S, R2E; thence northwest along a line to the northwest corner of Section 36, T39S, R1E; thence West to the southwest corner of Section 26, T39S, R1E; thence northwest along a line to the southeast corner of Section 7, T39S, R1E; thence West to the southwest corner of Section 12, T39S, R1W, T39S, R1W; thence northwest along a line to southwest corner of Section 20, T38S,

R1W; thence West to the southwest corner of Section 24, T38S, R2W; thence northwest along a line to the southwest corner of Section 4, T38S, R2W; thence West to the southwest corner of Section 6, T38S, R2W; thence northwest along a line to the southwest corner of Section 31, T37S, R2W; thence North and East along the Rogue River to the north boundary of Section 32, T35S, R1W; thence East along a line to the point of beginning.

(27) "Modified Source" means any source with a major modification as defined in OAR 340-200-0020.

(28) "Natural gas" means a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal component is methane.

(29) "New Source" means any source not in existence prior to April 7, 1978 or any source not having a Permit as of April 7, 1978.

(30) "Odor" means that property of an air contaminant that affects the sense of smell.

(31) "Offset" is defined in OAR 340-200-0020.

(32) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with the Department's Source Sampling Manual (January, 1992). Unless otherwise specified by rule, opacity must be measured in accordance with EPA Method 9. For all standards, the minimum observation period must be six minutes, though longer periods may be required by a specific rule or permit condition. Aggregate times (e.g. 3 minutes in any one hour) consist of the total duration of all readings during the observation period that exceed the opacity percentage in the standard, whether or not the readings are consecutive. Alternatives to EPA Method 9, such as a continuous opacity monitoring system (COMS), alternate Method 1 (LIDAR), or EPA Methods 22, or 203, may be used if approved in advance by the DEQ, in accordance with the Source Sampling Manual.

(33) "Open Burning" means burning conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in open outdoor fires, burn barrels, and backyard incinerators.

(34) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binders.

(35) "Particulate Matter" means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured in accordance with the Department Source Sampling Manual. Particulate matter emission determinations must consist of the average of three separate consecutive runs. For sources tested using DEQ Method 5 or DEQ Method 7, each run must have a minimum sampling time of one hour, a maximum sampling time of eight hours, and a minimum sampling volume of 31.8 dscf. For sources tested using DEQ Method 8, each run must have a minimum sampling time of 15 minutes and must collect a minimum particulate sample of

100 mg. Wood waste boilers and charcoal producing plants must be tested with DEQ Method 5; veneer dryers, wood particle dryers, fiber dryers and press/cooling vents must be tested with DEQ Method 7; and air conveying systems must be tested with DEQ Method 8 (January, 1992).

(36) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

(37) "Press/Cooling Vent" means any opening through which particulate and gaseous emissions from plywood, particleboard, or hardboard manufacturing are exhausted, either by natural draft or powered fan, from the building housing the process. Such openings are generally located immediately above the board press, board unloader, or board cooling area.

(38) "Rebuilt Boiler" means a physical change after April 29, 1988, to a wood-waste boiler or its air-contaminant emission control system which is not considered a "modified source" and for which the fixed, depreciable capital cost of added or replacement components equals or exceeds fifty percent of the fixed depreciable cost of a new component which has the same productive capacity

(39) "Refuse" means unwanted material.

(40) "Refuse burning equipment" means a device designed to reduce the volume of solid, liquid, or gaseous refuse by combustion.

(41) "Wood Fuel-Fired Device" means a device or appliance designed for wood fuel combustion, including cordwood stoves, wood stoves and fireplace stove inserts, fireplaces, wood fuel-fired cook stoves, pellet stoves and combination fuel furnaces or boilers, which burn wood fuels.

(42) "Source" means any structure, building, facility, equipment, installation or operation, or combination thereof, which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person, or by persons under common control.

(43) "Standard Conditions" means a temperature of 68° Fahrenheit (20° Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 Kilograms per square centimeter).

(44) "Standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from fuel or refuse burning, "standard cubic foot" also implies adjustment of gas volume to that which would result at a concentration of 12% carbon dioxide or 50% excess air.

(45) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(46) "Veneer Dryer" means equipment in which veneer is dried.

(47) "Wood-fired Veneer Dryer" means a veneer dryer which is directly heated by the products of combustion of wood fuel in addition to or exclusive of steam or natural gas or propane combustion.

(48) "Wigwam Fired Burner" means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for the incineration of wastes.

(49) "Wood Waste Boiler" means equipment which uses indirect heat transfer from the products of combustion of wood waste to provide heat or power.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

State effective: 12/11/2012; EPA effective: 8/25/2015; 80 FR 51470

THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA AND THE GRANTS PASS URBAN GROWTH AREA

340-240-0100 Applicability

OAR 340-240-0100 through 340-240-0250 apply in the Medford-Ashland Air Quality Maintenance Area (AQMA) and the Grants Pass Urban Growth Area (Area), except that OAR 340-240-0130, 340-240-0180, and 340-240-0190 apply only in the Medford-Ashland AQMA.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0110 Wood Waste Boilers

(1) No person may cause or permit the emission of particulate matter from any boiler with a heat input capacity greater than 35 million Btu/hour unless the boiler has been equipped with emission control equipment which:

(a) Limits emissions of particulate matter to LAER as defined by the Department at the time the Department approves the control device; and

(b) Limits visible emissions such that their opacity does not exceed 5% for more than an aggregate of 3 minutes in any one hour, unless the permittee demonstrates by source test that emissions can be limited to LAER at higher visible emissions, but in no case may emissions equal or exceed 10% opacity for more than an aggregate of 3 minutes in any one hour. Specific opacity limits will be included in the Permit for each affected source.

(2) For boilers existing in the Baseline Period with a heat input capacity greater than 35 million Btu/hour, boiler mass emission limits for the purpose of establishing the facility's netting basis under OAR 340-200-0020 will be based on particulate matter emissions of 0.030 grains per dry standard cubic foot, corrected to 12% CO₂.

(3) Rebuilt Boilers are subject to OAR 340-240-0110(1). Boiler mass emissions for purposes of OAR 340-222-0041 will be based on LAER at the time the Department approves the rebuilt boiler.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0120 Veneer Dryer Emission Limitations

(1) No person is allowed to operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed the opacity limits specified in subsections (a) and (b) of this section or such that emissions of particulate matter exceed the mass emission limits of subsections (c) through (g) of this section:

- (a) An average operating opacity of five percent; and
- (b) A maximum opacity of ten percent, unless the permittee demonstrates by source test that the emission limits in subsections (c) through (g) of this section can be achieved at higher visible emissions than specified in subsections (a) and (b) of this section, but in no case may emissions exceed the visible air contaminant limitations of OAR 340-234-0510(1)(b). Specific opacity limits will be included in the Permit for each affected source;
- (c) 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct natural gas or propane fired veneer dryers;
- (d) 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for steam heated veneer dryers;
- (e) 0.40 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content by weight less than 20 percent;
- (f) 0.45 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content by weight greater than 20 percent;
- (g) In addition to subsections (e) and (f) of this section, 0.20 pounds per 1,000 pounds of steam generated in boilers which exhaust combustion gases to the veneer dryer.
- (2) Exhaust gases from fuel-burning equipment vented to the veneer dryer are exempt from OAR 340-228-0210.
- (3) No person is allowed to operate a veneer dryer unless:
- (a) The owner or operator has submitted a program and time schedule for installing an emission-control system which has been approved in writing by the Department as being capable of complying with subsections (1)(a) through (g) of this rule;
- (b) The veneer dryer is equipped with an emission-control system which has been approved in writing by the Department and is capable of complying with subsections (1)(a) through (g) of this rule; or
- (c) The owner or operator has demonstrated and the Department has agreed in writing that the dryer is capable of being operated and is operated in continuous compliance with subsections (1)(a) through (g) of this rule.
- (4) Each veneer dryer must be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment are at full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable levels.
- (5) No person is allowed to willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule.
- (6) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0130 Air Conveying Systems (Medford-Ashland AQMA Only)

All air conveying systems emitting greater than ten tons per year of particulate matter to the atmosphere must, with the prior written approval of the Department, be equipped with a control system with collection efficiency of at least 98.5 percent.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0140 Wood Particle Dryers at Particleboard Plants

(1) No person is allowed to cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis of finished product equivalent.

(2) No person is allowed to cause or permit the visible emissions from the wood particle dryers at a particleboard plant to exceed ten percent opacity, unless the permittee demonstrates by source test that the particulate matter emission limit in section (1) of this rule can be achieved at higher visible emissions. In no case are emissions allowed to equal or exceed 20 percent opacity. Specific opacity limits will be included in the Permit for each affected source.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0150 Hardboard Manufacturing Plants

(1) Emissions from Hardboard plants excluding press vents. No person is allowed to cause or permit the total emissions of particulate matter from a hardboard plant, excluding press/cooling vents, to exceed 0.25 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

(2) Emissions from Hardboard plants including press vents. No person is allowed to cause or permit the total emissions of particulate matter from a hardboard plant, including press/cooling vents, to exceed 0.55 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

(3) When calculating emissions for this rule, emissions from truck dump and storage areas, fuel burning equipment, and refuse burning equipment are not included.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0160 Wigwam Waste Burners

No person owning or controlling any wigwam burner is allowed to cause or permit the operation of the wigwam burner.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0170 Charcoal Producing Plants

(1) No person is allowed to cause or permit the emission of particulate matter from charcoal producing plant sources including, but not limited to, charcoal furnaces, heat recovery boilers, and wood dryers using any portion of the charcoal furnace off-gases as a heat source, in excess of a total from all sources within the plant site of 10.0 pounds per ton of char produced (5.0 grams per Kilogram of char produced).

(2) Emissions from char storage, briquette making, boilers not using charcoal furnace off-gases, and fugitive sources are excluded in determining compliance with section (1) of this rule.

(3) Charcoal producing plants as described in section (1) of this rule are exempt from the

limitations of OAR 340-226-0210 sections (1) and (2), and 340-226-0310 which concern particulate emission concentrations and process weight.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0180 Control of Fugitive Emissions (Medford-Ashland AQMA Only)

(1) All sawmills, all plywood mills and veneer manufacturing plants, particleboard and hardboard plants, charcoal manufacturing plants, asphalt plants, rock crushers, animal feed manufacturers, and other major industrial facilities as identified by the Department, must prepare and implement site-specific plans for the control of fugitive emissions.

(2) Fugitive emission-control plans must identify reasonable measures to prevent particulate matter from becoming airborne. Special care will be taken by the facility to avoid the migration of material onto the public road system. Such reasonable measures include, but are not limited to the following:

(a) The systematic paving of all unpaved roads and areas on which vehicular traffic occurs. Until an area is paved, subsection (2)(b) applies;

(b) Scheduled application of asphalt, oil, water, or other suitable chemicals on unpaved roads, log storage or sorting yards, materials stockpiles, and other surfaces which can create airborne dust. Dust suppressant material must not adversely affect water quality;

(c) Periodic sweeping or cleaning of paved roads and other areas as necessary to prevent migration of material onto the public road system;

(d) Full or partial enclosure of materials stockpiled in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;

(e) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;

(f) Adequate containment during sandblasting or other similar operations;

(g) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne; and

(h) Procedures for the prompt removal of earth or other material from paved streets.

(3) Reasonable measures may include landscaping and using vegetation to reduce the migration of material onto public and private roadways.

(4) The facility owner or operator must supervise and control fugitive emissions and material that may become airborne caused by the activity of outside contractors delivering or removing materials at the site.

(5) The site-specific fugitive dust emissions control plan must be submitted to the Department prior to or within 60 days of permit issuance or renewal. The Department will approve or deny the plan within 30 days.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0190 Requirement for Operation and Maintenance Plans (Medford-Ashland AQMA Only)

(1) Operation and Maintenance Plans must be prepared by all holders of Permits other than a Basic ACDP. All sources subject to regular permit requirements are subject to operation and maintenance requirements.

(2) The purposes of the operation and maintenance plans are to:

(a) Reduce the number of upsets and breakdowns in particulate control equipment;

(b) Reduce the duration of upsets and downtimes; and

(c) Improve the efficiency of control equipment during normal operations.

(3) The operation and maintenance plans should consider, but not be limited to, the following:

(a) Personnel training in operation and maintenance;

(b) Preventative maintenance procedures, schedule and records;

(c) Logging of the occurrence and duration of all upsets, breakdowns and malfunctions which result in excessive emissions;

(d) Routine follow-up evaluation of upsets to identify the cause of the problem and changes needed to prevent a recurrence;

(e) Periodic source testing of pollution control units as required by the permit;

(f) Inspection of internal wear points of pollution control equipment during scheduled shutdowns; and

(g) Inventory of key spare parts.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0210 Continuous Monitoring

(1) The Department will require the installation and operation of instrumentation for measuring and recording emissions and/or the parameters which affect the emission of air contaminants from wood-waste fired boilers, veneer dryers, fiber dryers, and particle dryers to ensure that the sources and the air pollution control equipment are operated at all times at their full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable level. The instrumentation must be periodically calibrated. The method and frequency of calibration must be approved in writing by the Department. Continuous monitoring equipment and operation must be in accordance with continuous emission monitoring systems guidance provided by the Department and must be consistent, where applicable, with the EPA performance specifications and quality assurance procedures outlined in 40 CFR 60, Appendices B and F, and the Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III. The recorded information must be kept for a period of at least one year and must be made available to the Department upon request.

(2) At a minimum, the monitoring required under paragraph (1) of this section must include:

(a) Continuous monitoring and monthly reporting of carbon monoxide concentration and oxygen concentration for any wood-waste fired boiler with a heat input capacity greater than 35 million BTU/hr or for any wood-waste boiler using a wet scrubber as pollution control equipment and

steam production rate for any wood-waste fired boiler;

(b) Continuous monitoring and monthly reporting of pressure drop, scrubber water pressure, and scrubber water flow or other parameters deemed by the Department to be equal or better indicators of proper operation of the wet scrubber used as pollution control equipment for any wood-waste fired boiler, veneer dryer, particle dryer, or fiber dryer.

(c) Continuous monitoring and monthly reporting of opacity for any wood-waste fired boiler not controlled by a wet scrubber.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0220 Source Testing

(1) The person responsible for the following sources of particulate emissions must make or have made tests to determine the type, quantity, quality, and duration of emissions, and/or process parameters affecting emissions, in conformance with test methods on file with the Department at the following frequencies:

(a) Wood Waste Boilers with heat input capacity greater than 35 million Btu/hr. -- Once every year;

(b) Veneer Dryers -- Once every year during 1991, 1992, and 1993 and once every 3 years thereafter;

(c) Wood Particle Dryers at Hardboard and Particleboard Plants -- Once every year;

(d) Charcoal Producing Plants -- Once every year.

(e) Wood Waste Boilers with heat input capacity equal to or less than 35 million BTU/hr with dry emission control equipment -- Once in 1992 and once every 3 years thereafter.

(2) Source testing must begin at these frequencies within 90 days of the date by which compliance is to be achieved for each individual emission source.

(3) These source testing requirements will remain in effect unless waived in writing by the Department because of adequate demonstration that the source is consistently operating at lowest practicable levels, or that continuous emission monitoring systems are producing equivalent information.

(4) Source tests on wood waste boilers must not be performed during periods of soot blowing, grate cleaning, or other abnormal operating conditions. The maximum steaming rate for the boiler may not exceed the average steam production rate measured during the source test by more than ten percent (10%).

(5) Source tests must be performed within 90 days of the startup of air pollution control systems.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0230 New Sources

New sources are required to comply with OAR 340-240-0110(1) and 340-240-0120 through 340-240-0250 immediately upon initiation of operation.

State effective: 1/4/2005; EPA effective: 8/18/2006; 71 FR 35163

340-240-0250 Open Burning

No open burning of domestic waste is allowed on any day or at any time when the Department advises fire permit issuing agencies that open burning is not allowed because of adverse meteorological or air quality conditions.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

LA GRANDE URBAN GROWTH AREA

340-240-0300 Applicability

OAR 340-240-0300 through 340-240-0360 apply in the La Grande Urban Growth Area.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-240-0310 Compliance Schedule for Existing Sources

(1) Except as provided in sections (2) and (3) of this rule, compliance with applicable requirements of OAR 340-240-0300 through 340-240-0360 for a source that is located in the La Grande Urban Growth Area prior to November 15, 1991 must be demonstrated as expeditiously as possible, but in no case later than the following schedule:

(a) No later than May 15, 1992, the owner or operator must submit Design Criteria and a Notice of Intent to Construct for emission-control systems for Department review and approval; and if the Department disapproves the Design Criteria, the owner or operator must revise the Design Criteria to meet the Department's objections and submit the revised Design Criteria to the Department no later than one month after receiving the Department's disapproval;

(b) No later than three months after receiving the Department's approval of the Design Criteria, the owner or operator must submit to the Department a General Arrangement and copies of purchase orders for any emission-control devices;

(c) No later than eight months after receiving the Department's approval of the Design Criteria, the owner or operator must submit to the Department vendor drawings as approved for construction of any emission-control devices and specifications of any other major equipment in the emission-control system in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

(d) No later than nine months after receiving the Department's approval of the Design Criteria, the owner or operator must begin construction of any emission-control devices;

(e) No later than sixteen months after receiving the Department's approval of Design Criteria, the owner or operator must complete construction in accordance with the Design Criteria;

(f) No later than May 15, 1994, the owner or operator must demonstrate compliance with the applicable contingency requirements.

(2) Section (1) of this rule does not apply if the owner or operator has demonstrated by May 15, 1992 that the source is capable of being operated and is operated in continuous compliance with applicable requirements of OAR 340-240-0300 through 340-240-0360 and the Department has agreed with the demonstration in writing. The Department may grant an extension until November 15, 1992 for a source to demonstrate compliance under this section. The applicable requirements will be incorporated in the Permit issued to the source.

(3) The Department may adjust the schedule specified in subsections (1)(a) through (e) of this rule if necessary to ensure timely compliance with subsection (1)(f) of this rule or if necessary to conform to an existing compliance schedule with an earlier compliance demonstration date.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0320 Wood-Waste Boilers

No person is allowed to cause or permit the emission into the atmosphere from any wood-waste boiler that is located on a plant site where the total heat input capacity from all wood-waste boilers is greater than 35 million Btu/hr:

(1) Any air contaminant for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than ten percent opacity, unless the permittee demonstrates by source test that the source can comply with the emission limit in section (2) of this rule at higher opacity but in no case are emissions equal or exceed 20 percent opacity for more than an aggregate of three minutes in any one hour allowed. Specific opacity limits will be included in the Permit for each affected source.

(2) Particulate matter in excess of 0.05 grains per standard cubic foot, corrected to 12 percent CO₂.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0330 Wood Particle Dryers at Particleboard Plants

(1) No person is allowed to cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis of finished product equivalent.

(2) No person is allowed to cause or permit the visible emissions from the wood particle dryers at a particleboard plant to exceed ten percent opacity, unless the permittee demonstrates by source test that the particulate matter emission limit in section (1) of this rule can be achieved at higher visible emissions, but in no case are emissions equal or exceed 20 percent opacity allowed. Specific opacity limits will be included in the Permit for each affected source.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0340 Hardboard Manufacturing Plants

No person is allowed to cause or permit the total emissions of particulate matter from all sources within a hardboard plant, other than press/cooling vents, in excess of 0.25 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0350 Air Conveying Systems

(1) No person is allowed to cause or permit the emission of particulate matter in excess of 0.1 grains per standard cubic foot from any air conveying system emitting less than or equal to ten tons of particulate matter to the atmosphere during any 12-month period beginning on or after January 1, 1990.

(2) All air conveying systems emitting greater than ten tons of particulate matter to the atmosphere during any 12-month period beginning on or after January 1, 1990 must be equipped with a control system with a collection efficiency of at least 98.5 percent or equivalent control as approved by the Department.

(3) No person is allowed to cause or permit the emission of any air contaminant which is equal to or greater than five percent opacity from any air conveying system subject to section (2) of this rule.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0360 Fugitive Emissions

The owner or operator of a large sawmill, any plywood mill or veneer manufacturing plant, particleboard plant, hardboard plant, or charcoal manufacturing plant that is located in the La Grande Urban Growth Area must comply with OAR 340-240-0180.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

THE LAKEVIEW URBAN GROWTH AREA

340-240-0400 Applicability

OAR 340-240-0400 through 340-240-0440 apply to the Lakeview Urban Growth Area.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0410 Control of Fugitive Emissions

(1) Large sawmills, all plywood mills and veneer manufacturing plants, particleboard and hardboard plants, charcoal manufacturing plants, stationary asphalt plants, stationary rock crushers, and sources subject to OAR 340-240-0420 must prepare and implement site-specific plans for the control of fugitive emissions.

(2) Fugitive emission control plans must identify reasonable measures to prevent particulate matter from becoming airborne. Such reasonable measures include, but not be limited to the following:

(a) Scheduled application of asphalt, oil, water, or other suitable chemicals on unpaved roads, log storage or sorting yards, materials stockpiles, and other surfaces which can create airborne dust;

(b) Full or partial enclosure of materials stockpiled in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;

(c) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;

(d) Adequate containment during sandblasting or other similar operations;

(e) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne; and

(f) Procedures for the prompt removal from paved streets of earth or other material which does or may become airborne.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0420 Requirement for Operation and Maintenance Plans

(1) Operation and Maintenance Plans must be prepared by all holders of Permits other than a Regulated Source ACDP. All sources subject to regular permit requirements are subject to operation and maintenance requirements.

(2) The purposes of the operation and maintenance plans are to:

- (a) Reduce the number of upsets and breakdowns in particulate control equipment;
 - (b) Reduce the duration of upsets and downtimes; and
 - (c) Improve the efficiency of control equipment during normal operations.
- (3) The operation and maintenance plans should consider, but not be limited to, the following:
- (a) Personnel training in operation and maintenance;
 - (b) Preventative maintenance procedures, schedule and records;
 - (c) Logging of the occurrence and duration of all upsets, breakdowns and malfunctions which result in excessive emissions;
 - (d) Routine follow-up evaluation of upsets to identify the cause of the problem and changes needed to prevent a recurrence;
 - (e) Periodic source testing of pollution control units as required by a permit;
 - (f) Inspection of internal wear points of pollution control equipment during scheduled shutdowns; and
 - (g) Inventory of key spare parts.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0430 Source Testing

The person responsible for the following sources of particulate emissions must make or have made tests to determine the type, quantity, quality, and duration of emissions, and/or process parameters affecting emissions, in conformance with test methods on file with the Department at the following frequency: Wood Waste Boilers with total heat input capacity equal to or greater than 35 million Btu/hr. -- Once every three years.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

340-240-0440 Open Burning

No open burning of domestic waste is allowed to be initiated on any day or at any time when the local air stagnation advisory forecasts adverse meteorological or air quality conditions.

State effective: 7/1/2001; EPA effective: 3/24/2003; 68 FR 2891

Klamath Falls Nonattainment Area

340-240-0500 Applicability

OAR 340-240-0500 through 340-240-0630 apply in the Klamath Falls Nonattainment Area beginning January 1, 2013.

State effective: 12/11/2012; EPA effective: 8/25/2015; 80 FR 51470

340-240-0510 Opacity Standard

(1) Except as provided in section (2) of this rule, no person conducting a commercial or industrial activity may cause or permit the emission of any air contaminant into the atmosphere from any stationary source including fuel or refuse burning equipment, that exhibits equal to or greater than 20% opacity for a period or periods aggregating more than three minutes in any one hour.

(2) Exceptions to section (1) of this rule:

(a) This rule does not apply to fugitive emissions.

(b) This rule does not apply where the presence of uncombined water is the only reason for failure of any source to meet the requirements of this rule.

(c) For wood-fired boilers that were constructed or installed prior to June 1, 1970 and not modified since that time, visible emissions during grate cleaning operations must not equal or exceed 40% opacity for a period or periods aggregating more than three minutes in any one hour.

(A) Beginning June 30, 2013, this exception will only apply if the owner or operator conducts the grate cleaning in accordance with a grate cleaning plan that has been approved by DEQ

(B) The owner or operator must prepare a grate cleaning plan in consultation with DEQ and submit the plan to DEQ by June 1, 2013.

(3) Opacity is determined in accordance with EPA Method 9 of Appendix A to 40 CFR Part 60 or a continuous opacity monitoring system (COMS) installed and operated in accordance with Performance Specification 1 of Appendix B to 40 CFR Part 60.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

State effective: 12/11/2012; EPA effective: 8/25/2015; 80 FR 51470

340-240-0520 Control of Fugitive Emissions

(1) All sawmills, plywood mills and veneer manufacturing plants, particleboard and hardboard plants, asphalt plants, rock crushers, animal feed manufacturers, and other major industrial facilities as identified by the DEQ, must prepare and implement site-specific plans for the control of fugitive emissions. The plan must be submitted to the DEQ for approval in accordance with paragraph (5) below.

(2) Fugitive emission-control plans must identify reasonable measures to prevent particulate matter from becoming airborne, and avoid the migration of material onto the public road system. Such reasonable measures may include, but are not limited to the following:

(a) Paving all roads and areas on which vehicular traffic occurs at the facility;

(b) Scheduled application of water, or other suitable chemicals on unpaved roads, log storage or sorting yards, materials stockpiles, and other surfaces which can create airborne dust. Dust suppressant material must not adversely affect water quality;

- (c)) Periodic sweeping or cleaning of paved roads and other areas as necessary to prevent migration of material onto the public road system;
 - (d) Full or partial enclosure of materials stockpiled or other best management practices in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;
 - (e) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;
 - (f) Adequate containment during sandblasting or other similar operations;
 - (g) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne; and
 - (h) Procedures for the prompt removal of earth or other material from paved streets.
- (3) Reasonable measures may include landscaping and using vegetation to reduce the migration of material onto public and private roadways or from becoming airborne.
- (4) The facility owner or operator must supervise and control fugitive emissions and material that may become airborne caused by the activity of outside contractors delivering or removing materials at the site.
- (5) For existing sources, the site-specific fugitive emissions control plan must be submitted to the DEQ by July 1, 2013. For sources that obtain their initial permit after December 14, 2012, the site-specific fugitive emission control plan must be submitted within 60 days after permit issuance. For portable sources that move into the nonattainment area after December 14, 2012, the site-specific fugitive emission control plan must be submitted with the relocation notification. Unless otherwise notified by the DEQ, the fugitive emission control plan will be approved by default within 30 days after the plan is submitted to the DEQ. The DEQ may request revisions to the plan at any time if fugitive emissions are not adequately controlled as demonstrated by visible emissions.

[**NOTE:** These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

State effective: 12/11/2012; EPA effective: 8/25/2015; 80 FR 51470

340-240-0530 Requirement for Operation and Maintenance Plans

- (1) With the exception of basic and general permit holders, a permit holder must prepare and implement Operation and Maintenance Plans for non-fugitive sources of particulate matter.
- (2) The purposes of the operation and maintenance plans are to:
 - (a)) Reduce the number of upsets and breakdowns in particulate control equipment;
 - (b) Reduce the duration of upsets and downtimes; and
 - (c) Improve the efficiency of control equipment during normal operations.
- (3) The operation and maintenance plans should consider, but not be limited to, the following:

- (a) Personnel training in operation and maintenance;
- (b) Preventative maintenance procedures, schedule and records;
- (c) Logging of the occurrence and duration of all upsets, breakdowns and malfunctions which result in excessive emissions;
- (d) Routine follow-up evaluation of upsets to identify the cause of the problem and changes needed to prevent a recurrence;
- (e) Periodic source testing of pollution control units as required by the permit;
- (f) Inspection of internal wear points of pollution control equipment during scheduled shutdowns; and
- (g) Inventory of key spare parts.

(4) Existing sources must submit an Operation and Maintenance Plan to the DEQ by July 1, 2013. Sources obtaining an initial permit after December 14, 2012 must submit the Operation and Maintenance Plan within 60 days of permit issuance. The DEQ will notify sources within 30 days of plan submittal only if the Operation and Maintenance Plan is not approved. The DEQ may request revisions to the plan at any time if plans are not sufficient.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

340-240-0540 Compliance Schedule for Existing Industrial Sources

(1) Except as provided in sections (2) and (3) of this rule, compliance with applicable requirements of OAR 340-240-0500 through 340-240-0540 for a source that is built and located in the Klamath Falls Nonattainment Area prior to December 14, 2012 must be demonstrated by the owner or operator of the source as expeditiously as possible, but in no case later than the following schedule:

(a) No later than June 15, 2013, the owner or operator must submit Design Criteria and a Notice of Intent to Construct for emission-control systems for complying with OAR 340-240-0510 through 340-240-0540 for DEQ review and approval; If the DEQ disapproves the Design Criteria, the owner or operator must revise the Design Criteria to meet the DEQ's objections and submit the revised Design Criteria to the DEQ no later than one month after receiving the DEQ's disapproval;

(b) No later than three months after receiving the DEQ's approval of the Design Criteria, the owner or operator must submit to the DEQ copies of purchase orders for any emission-control devices;

(c) No later than eight months after receiving the DEQ's approval of the Design Criteria, the owner or operator must submit to the DEQ vendor drawings as approved for construction of any emission-control devices and specifications of any other major equipment in the emission-control system in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

(d) No later than nine months after receiving the DEQ's approval of the Design Criteria, the owner or operator must begin construction of any emission-control devices;

(e) No later than fourteen months after receiving the DEQ's approval of Design Criteria, the owner or operator must complete construction in accordance with the Design Criteria;

(f) No later than October 15, 2014, the owner or operator must demonstrate compliance with the applicable requirements identified in OAR 340-240-0500 through 0540. Compliance with 340-240-0510 must be demonstrated by conducting a source test. Compliance with 340-240-0520 and 0530 must be demonstrated by implementing the approved plans.

(2) Section (1) of this rule does not apply if the owner or operator of the source has demonstrated by September 15, 2014 that the source is capable of being operated and is operated in continuous compliance with applicable requirements of OAR 340-240-0500 through 340-240-0540 and the DEQ has agreed with the demonstration in writing. The DEQ may grant an extension until April 15, 2015 for a source to demonstrate compliance under this section. The applicable requirements will be incorporated in the Permit issued to the source.

(3) The DEQ may adjust the schedule specified in subsections (1)(a) through (e) of this rule if necessary to ensure timely compliance with subsection (1)(f) of this rule or if necessary to conform to an existing compliance schedule with an earlier compliance demonstration date.

[NOTE: These rules are included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

340-240-0550 Requirements for New Sources When Using Residential Wood Fuel-Fired Device Offsets

(1) All new or modified sources subject to OAR 340-224-0050 or 340-224-0060 may opt to use wood fuel-fired device emission reductions from within the nonattainment or maintenance area to satisfy the offset requirements of OAR 340-225-0090(2):

(a) Offsets for decommissioning fireplaces and non-certified woodstoves (including fireplace inserts) are obtained at a ratio of at least 1:1 (i.e., one ton of emission reductions from fireplaces and non-certified wood stoves offsets one ton of emissions from a proposed new or modified industrial point source proposed to be located inside or impacting the non-attainment area or maintenance area);

(b) Offsets must be obtained from within the Klamath Falls Nonattainment Area and Maintenance Area; and

(c) The emission reductions offsets must be approved by the DEQ and comply with OAR 340-240-0560.

(2) The net air quality benefit analysis specified in OAR 340-225-0090(2)(a)(E) is not applicable to offsets meeting the criteria in (a) through (c) of section (1) of this rule.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

State effective: 12/11/2012; EPA effective: 8/25/2015; 80 FR 51470

Real and Permanent PM_{2.5} and PM₁₀ Offsets

340-240-0560 Real and Permanent PM_{2.5} and PM₁₀ Offsets

(1) Annual emissions reductions offsets (PM_{2.5} and PM₁₀) are determined as follows:

(a) For **fireplaces**, the emission reductions offsets for decommissioning the fireplace and replacing it with a:

(A) certified fireplace insert is 0.02 tons for each replaced device;

(B) pellet stove insert is 0.03 tons for each replaced device; or

(C) alternative non-wood burning heating system is 0.04 tons for each replaced device.

Note: As used in this rule, “Certified” includes catalytic and non-catalytic designs, unless otherwise specified.

(b) For **non-certified fireplace inserts**, the emission reduction for replacing the heating device with a:

(A) certified fireplace insert is 0.02 tons for each replaced device;

(B) pellet stove is 0.04 tons for each replaced device; or

(C) alternative non-wood burning heating system is 0.04 tons for each replaced device

(c) For **conventional (non-certified) woodstoves**, the emission reduction for replacing the heating device with a:

(A) certified woodstove (including both catalytic and non-catalytic designs) or certified fireplace insert is 0.03 tons for each replaced device; or

(B) pellet stove is 0.05 tons for each replaced device; or

(C) alternative non-wood burning heating system is 0.06 tons for each replaced device

(d) For **certified woodstoves** (including both catalytic and non-catalytic designs), the emission reduction for replacing the heating device with a:

(A)) pellet stove is 0.03 tons for each replaced device; or

(B) alternative non-wood burning heating system is 0.04 tons for each replaced device

(2) For the emission reductions identified in section (1) to be considered permanent, the person responsible for taking credit for the emission reductions must obtain and maintain the following records for at least 5 years from the date that the proposed industrial point source commences operation:

(a) the address of the residence where the emission reduction occurred;

(b) the date that the emission reduction was achieved;

(c) purchase and installation records for certified woodstoves, certified inserts, or alternative non-wood burning heating systems;

(d) records for permanently decommissioning fireplaces, if applicable; and

(e) disposal records for non-certified woodstoves or fireplace inserts removed.

(3) The records identified in section (2) may be provided by a third party authorized and monitored by the DEQ to procure the emission reductions identified in section (1).

(4) All emission reductions must be achieved prior to startup of the proposed source using the emission reductions as offsets in the permitting action specified in OAR 340-224-0050 or 340-224-0060.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

State effective: 12/11/2012; EPA effective: 8/25/2015; 80 FR 51470

Klamath Falls Nonattainment Area Contingency Measures

340-240-0570 Applicability

OAR 340-240-0570 through 340-240-0630 apply to the Klamath Falls Nonattainment Area for PM_{2.5} should the area not achieve attainment by the applicable attainment date established pursuant to 42 U.S.C. 7502(a)(2).

State effective: 12/11/2012; EPA effective: 6/16/2016; 81 FR 36176

340-240-0580 Existing Industrial Sources Control Efficiency

The owner or operator of an Oregon Title V Operating Permit program source, as defined in OAR 340-200-0020 may not remove or modify existing control devices unless the new control device has the same or better PM_{2.5} control efficiency as the old device.

State effective: 12/11/2012; EPA effective: 6/16/2016; 81 FR 36176

340-240-0610 Continuous Monitoring for Industrial Sources

The owner or operator of an Oregon Title V Operating Permit program source, as defined in OAR 340-200-0020 must install and operate instrumentation for measuring and recording emissions or the parameters that affect the emission of particulate matter from wood-fired boilers by June 1, 2015, to ensure that the sources and the air pollution control equipment are operated at all times at their full efficiency and effectiveness so that the emission of particulate matter is kept at the lowest practicable level. Continuous monitoring equipment and operation must be in accordance with the Department's Continuous Monitoring Manual.

- (1) At a minimum, the monitoring required under paragraph (1) of this section must include:
 - (a) Continuous monitoring of control device parameters for any wood-fired boiler.
 - (b) Continuous monitoring of opacity for any wood-fired boiler not controlled by a wet scrubber.

State effective: 12/11/2012; EPA effective: 6/16/2016; 81 FR 36176

340-240-0620 Contingency Measures: New Industrial Sources

New industrial sources must comply with OAR 340-240-0570 through 340-240-0610 immediately upon receiving an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.

State effective: 12/11/2012; EPA effective: 6/16/2016; 81 FR 36176

340-240-0630 Contingency Enhanced Curtailment of Use of Solid Fuel Burning Devices and Fireplaces

- (1) Beginning on November 1 of each year and continuing through and including February 28 of the following year, no fireplace, as defined by OAR 340-262-0450, may emit more than 5.1 grams per kilogram of particulate emissions. A fireplace shall be deemed in compliance with this emission standard if it has been certified either in accordance with ASTM international standard test method E2558 or by the DEQ pursuant to OAR 340-262-0500. A fireplace that is not certified as described in this rule shall be presumed not to comply with this rule.
- (2) The DEQ may approve exemptions from compliance with section (1) of this rule on days when the DEQ or the Klamath County Health Department has issued a local Klamath Falls Advisory Call indicating that it is a good ventilation day (a "green day") that are also state holidays or days that the county has designated as a "special occasion day". Any person who wishes to receive such an exemption must file an exemption application with the DEQ and the DEQ must have approved the exemption request prior to the green day.

State effective: 12/11/2012; EPA effective: 6/16/2016; 81 FR 36176

DIVISION 242**RULES APPLICABLE TO THE PORTLAND AREA**

EMPLOYEE COMMUTE OPTIONS PROGRAM

340-242-0010 What is the Employee Commute Options Program?

(1) The Employee Commute Options or "ECO" Program requires larger employers to provide commute options to encourage employees to reduce auto trips to the work site.

(2) ECO is one of several strategies included in the Ozone Maintenance Plan for the Portland Air Quality Maintenance Area. The Ozone Maintenance Plan will keep the area in compliance with the federal ozone standard.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0020 Who is Subject to ECO?

ECO applies to employers within the Portland Air Quality Maintenance Area (AQMA) with more than 100 employees at a work site. The Portland Air Quality Maintenance Area is defined in Oregon Administrative Rules (OAR) 340-204-0010 and is illustrated in **Figure 1**.

NOTE: The term "employer," and several other terms, are used throughout these rules as defined in Definitions of Terms, OAR 340-242-0050.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0030 What Does ECO Require?

Employers must provide commute options that have the potential to reduce employee commute auto trips by ten percent within three years of its baseline survey. Employers must continue to provide commute options that have the potential to achieve and maintain the reduced auto trip rate. Options are available for alternative emission reduction measures, credits for past actions, and exemptions.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0040 How Does the Department Enforce ECO?

Enforcement procedures and civil penalties in OAR, chapter 340, division 12 apply. Under OAR 340012-0053(2) and 340-012-0054(2)(g), violations of the ECO rules are Class Two violations. Failure to achieve a ten percent trip reduction is not a violation; failure to make a good faith effort toward, or prepare and implement a plan designed to achieve, a ten percent trip reduction is a violation. Civil penalties are determined under OAR 340-012-0045

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0050 Definitions of Terms Used in These Rules

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to OAR 340-242-0010 through 340-242-0290. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to OAR 340-242-0010 through 340-242-0290.

(1) "AQMA" means the Portland Air Quality Maintenance Area.

(2) "Auto Trip" means a commute trip taken by vehicle to a work site.

(3) "Auto Trip Rate" means the number of commute vehicles arriving at a work site divided by the number of employees that report to the work site.

- (4) "Baseline Auto Trip Rate" means the daily average auto trip rate established by the baseline survey.
- (5) "Baseline Survey" means the employee survey administered at the beginning of the ECO program, or when a new or expanding employer becomes subject to the ECO rules, or when an employer relocates.
- (6) "Car/Vanpool" means a motor vehicle occupied by two or more people traveling together for their commute trip that results in the reduction of a minimum of one auto trip.
- (7) "Compressed Work Week" means a schedule in which employees work their regularly-scheduled number of hours in fewer days per week or over a number of weeks (for example, a 40-hour, 8 hours per day, Monday through Friday work week is compressed into a 40-hour, 10 hours a day, Monday through Thursday work week.).
- (8) "Department" means the Oregon Department of Environmental Quality.
- (9) "ECO Program" or "ECO Rules" means OAR 340-242-0010 through 340-242-0290.
- (10) "Employee" means any person on the employer's payroll, full or part-time (part time is 80 or more hours per 28-day period), for at least six consecutive months at the same work site, including business owners, associates, partners, and partners classified as professional corporations.
- (11) "Employer" means. any person, business, educational institution, non-profit agency or corporation, government department or agency or other entity that employs more than 100 employees at a single work site.
- (12) "Equivalent Emission Reduction" means a reduction of vehicle emissions, or other sources of volatile organic compounds (VOC) and nitrogen oxides (NOx) emissions, that results in a reduction of VOC and NOx emissions equal to the emission reduction resulting from one eliminated auto trip.
- (13) "Metro" means the regional government agency that serves the Portland metropolitan area.
- (14) "New Employer" means any employer establishing a work site within the Portland AQMA, or any employer within the Portland AQMA that expands employment at a single work site to more than 100 employees, after the effective date of the ECO rules.
- (15) "Non-Scheduled Work Week" means a work week with no regular daily scheduled starting or ending time, no scheduled work days, or employees are on-call. This does not include employees working a traditional "8 to 5" job who may work on a flexible schedule.
- (16) "Target Auto Trip Rate" means a rate ten percent less than the baseline auto trip rate.
- (17) "Target Compliance Deadline" means the date by which employers must demonstrate progress toward achieving and maintaining their target auto trip rate. The initial target compliance deadline is three years following registration.
- (18) "Telecommuting" means the employees perform regular work duties at home, or at a work center closer to home than to work, rather than commuting to work. The employees may telecommute full time, or commute to work on some days and telecommute on others.
- (19) "Vehicle" or "Auto" means a highway vehicle powered by a gasoline or diesel internal combustion engine with fewer than sixteen adult passenger seating positions.
- (20) "Work site" means a property that is owned or leased by an employer or employers under common control, including a temporary or permanent building, or grouping of buildings that are in actual physical contact or

separated only by a private or public roadway or other right-of-way.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0060 Should All Employees at a Work Site be Counted?

The count of employees at a work site must include:

- (1) Employees from all shifts, Monday through Friday, during a 24-hour period, averaged over a 12-month period;
- (2) Employees on the employer's payroll for at least six consecutive months at one work site; and
- (3) Part-time employees assigned to a work site 80 or more hours per 28-day-period; but
- (4) Excludes volunteers, disabled employees (as defined under the Americans with Disabilities Act), employees working on a **non-scheduled work week**, and employees required to use a personal **vehicle** as a condition of employment.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0070 What are the Major Requirements of ECO?

To comply with ECO, employers must:

- (1) Conduct a baseline survey of employees to establish a baseline auto trip rate (or provide documentation of the current auto trip rate that is at least as accurate as a survey would provide);
- (2) Calculate a target auto trip rate by reducing the baseline auto trip rate by 10 percent;
- (3) Submit a registration form as supplied by the Department;
- (4) Design and implement a trip reduction strategy that has the potential to achieve the target auto trip rate by the target compliance deadline and the potential to maintain the target auto trip rate;
- (5) Either:

(a) Prepare and implement an auto trip reduction plan for each work site and submit the plan to the Department for approval; or

NOTE: Enforcement will be based upon implementing the approved plan, see OAR 340-242-0110

(b) Provide written notice to the Department of participation in an equivalent commute trip reduction program.

NOTE: Enforcement will be based on good faith effort, see OAR 340-242-0180 and special requirements in OAR 340-242-0110.

(6) Survey employees every two years, report survey findings to the Department; and

(7) Continue to implement strategies to achieve or maintain the target auto trip rate.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0080 What are the Registration Requirements?

(1) Employers must submit a registration form to the Department on forms provided by the Department.

(2) Employers with multiple work sites may submit one application for all work sites.

(3) Baseline survey findings must be submitted with the registration form in the format described on the registration form.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0090 What are the Requirements for an Employee Survey?

- (1) Employers may use the survey form provided by the Department or an alternate instrument. Any alternate survey instrument must be approved by the Department before use and must provide an opportunity for employees to indicate an interest in a **carpool** matching program;
- (2) The employer must distribute the survey form to all employees and achieve a minimum response rate of 75 percent; If the employer cannot achieve the minimum response rate for follow-up surveys within a reasonable amount of time, the Department will assign a single occupant vehicle mode to the percentage of employees who did not respond up to the 75% rate;
- (3) Employers with more than 400 employees at a work site may survey a statistically valid random sample of employees and must follow the Department's guidelines for random sampling;
- (4) Survey forms must be distributed during the week following a typical work week for the employer and not bordering a holiday;
- (5) The baseline survey must not be distributed to employees earlier than one year before reporting the results to the Department (older baseline surveys can be used to apply for credit, see OAR 340-2420250);
- (6) Follow-up surveys must not be distributed to employees earlier than 90 days before reporting the results to the Department;
- (7) Employers must report survey findings to the Department every two years, and;
- (8) An alternative method may be substituted for the survey. Alternative methods must be at least as accurate as survey findings and must be approved by the Department (such methods might include counting cars in an employee parking lot or conducting work site entrance verbal surveys).

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0100 Special Requirements for Employers Intending to Comply Without an Approved Plan

- (1) Employers who choose to achieve the target auto trip rate without an approved plan must survey employees 18 months after the baseline survey was conducted;
- (2) Findings from the 18-month survey must be submitted to the Department according to the schedule in **Table 1**;
- (3) If an 18-month survey shows that the employer's progress toward the target auto trip rate is less than one-third of the target trip reduction, the employer must submit an auto trip reduction plan to the Department for approval within 60 days of submitting survey findings to the Department; and
- (4) Following the 18-month survey, employers must survey annually according to the schedule in **Table 1**.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0110 What if an Employer Does Not Meet the Target Auto Trip Rate?

- (1) An employer with an approved plan who has fully implemented its plan yet has not achieved its target auto trip rate by the target compliance date, or does not maintain its target rate on biennial basis, must submit a revised plan within 60 days following the target compliance date in any given year. If an employer has not fully implemented its plan, the employer is subject to an enforcement action by the Department.

(2) An employer participating in an equivalent commute trip reduction program who does not achieve its target auto trip rate by the target compliance date must demonstrate that a good faith effort was made to achieve the target rate. Requirements for documenting good faith effort are described in 340-2420180. The employer must also submit a trip reduction plan within 60 days following the target compliance date. If an employer cannot demonstrate that a good faith effort was made, the employer is subject to an enforcement action by the Department.

(3) An employer will not be required to submit further plan revisions to its initial plan if, after fully implementing two revisions, the target auto trip rate is not reached. The employer must maintain strategies identified in its plan, or revisions to that plan, that resulted in improvements to the auto trip rate.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0120 How Will Employers Demonstrate Progress Toward the Target Auto Trip Rate?

Employers must submit employee survey findings, including a calculated auto trip rate, to the Department. The Department will compare the reported auto trip rate with the employer's target auto trip rate.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0130 What is the Schedule Employers Must Follow to Implement ECO?

The schedule employers must follow to implement the ECO program is detailed in **Table 1**. Implementation is staggered and employer grouping is based on work site zip code. The Department will place any work site located in a zip code not listed in this rule in a group with the most closely associated zip code. An employer with multiple work sites in more than one zip code may follow one schedule for all work sites with approval from the Department.

Table 1

IMPLEMENTATION SCHEDULE

Registration Forms Due

Group 1 — 11-1-96

Group 2 — 2-1-97

Group 3 — 5-1-97

Group 4 — 8-1-97

Baseline Surveys Due

Group 1 — 11-1-96

Group 2 — 2-1-97

Group 3 — 5-1-97

Group 4 — 8-1-97

Plans - Notices of Intent To Comply w/o a Plan Due

Group 1 — 2-1-97

Group 2 — 5-1-97

Group 3 — 8-1-97

Group 4 — 11-1-97

12-Month Surveys Due for Those with a Plan

Group 1 — 11-1-97

Group 2 — 2-1-97

Group 3 — 5-1-98

Group 4 — 8-1-98

18-Month Surveys Due for Those without a Plan

- Group 1 — 5-1-98
- Group 2 — 8-1-98
- Group 3 — 11-1-98
- Group 4 — 2-1-98

Surveys Due for Those with a Plan

- Group 1 — 11-1-98
- Group 2 — 2-1-99
- Group 3 — 5-1-99
- Group 4 — 8-1-99

Initial Target Compliance Date Surveys Due for all Employers

- Group 1 — 11-1-99
- Group 2 — 2-1-00
- Group 3 — 5-1-00
- Group 4 — 8-1-00

Annual Target Compliance Date Surveys Due for all Employers

- Group 1 — every 11-1 thru 2006
- Group 2 — every 2-1 thru 2006
- Group 3 — every 5-1 thru 2006
- Group 4 — every 8-1 thru 2006

Group 1 includes: Northeast zip codes: 97024, 97060, 97203, 97211, 97212, 97213, 97217, 97218, 97220, 97227, 97230, 97232;

Group 2 includes: Southeast zip codes: 97004, 97009, 97015, 97027, 97030, 97045, 97080, 97202, 97206, 97214, 97215, 97216, 97222, 97233, 97236, 97266, 97267;

Group 3 includes: Southwest zip codes: 97005, 97006, 97007, 97008, 97034, 97035, 97036, 97062, 97068, 97070, 97106, 97113, 97119, 97132, 97140, 97219, 97223, 97224;

Group 4 includes: Northwest zip codes: 97116, 97123, 97124, 97133, 97201, 97204, 97205, 97207, 97208, 97209, 97210, 97221, 97225, 97229, 97231, 97258.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0140 How Should Employers Account for Changes in Work Force Size?

The target auto trip rate remains constant regardless of changes in work force size. Employers experiencing an annual increase or decrease in the number of employees reporting to a work site must simply maintain the target auto trip rate.

NOTE: For example, an employer has 200 employees and 180 autos arriving at the work site. The employer's baseline auto trip rate is 180 autos/200 employees, or .90. The target auto trip rate is .90 minus 10 percent, or .81. The employer's work force increases to 300 employees. The target auto trip rate remains .81. In order to maintain the target auto trip rate, auto trips to the work site cannot exceed (300 X .81), or 243 trips. Similarly, if the employer's work force decreases to 100 employees, the target auto trip rate remains .81, and auto trips to the work site cannot exceed (100 X .81) or 81 trips.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0150 How Can an Employer Reduce Auto Commute Trips to a Work Site?

Employee commute option programs include, but are not limited to:

- (1) Promoting carpool and vanpool programs;
- (2) Offering transit subsidies;
- (3) Establishing **telecommuting** opportunities;
- (4) Offering **compressed work week** schedules;
- (5) Providing an emergency ride home program;
- (6) Sponsoring shuttle buses to and from transit terminals and/or during lunch hours for errands;
- (7) Improving facilities to promote bicycle use;
- (8) Establishing on-site amenities to decrease employees' need for a car at the work site;
- (9) Discontinuing parking subsidies and charging all employees for parking.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0160 What Should be Included in an Auto Trip Reduction Plan?

An auto trip reduction plan must include:

- (1) The results of the baseline survey (or comparable documentation);
- (2) Calculation of baseline and target auto trip rates;
- (3) Any employee commute option programs currently in use at the work site;
- (4) New commute options to be implemented at the work site that have the potential to achieve and maintain the target auto trip rate;
- (5) Empirical evidence that the commute option(s) to be offered or supported by the employer have the potential to achieve and maintain the target auto trip rate (employers may reference the Department's report Alternatives to Single Occupant Vehicle Trips or provide equivalent documentation);
- (6) Any unique aspects of the business or work site influencing the trip reduction strategies selected;
- (7) A schedule for implementing each of the selected commute option measures;
- (8) Any alternative emission reduction proposals prepared by the employer according to OAR 340-2420240;
- (9) The name, title, telephone number, and business mailing address of the person designated by the employer as the contact for the work site (contact person does not have to be located at the work site); and a signed statement certifying that the documents and information submitted in the plan are true and correct to the best of that person's knowledge.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0170 When Will the Department Act on a Submitted Auto Trip Reduction Plan?

The Department will approve or notify the employer of deficiencies in a submitted auto trip reduction plan, based on the criteria in OAR 340-242-0160, within 90 days or the plan will be automatically approved. The employer will have 30 days to correct the deficiencies and resubmit the plan to the Department. Plan approvals will be documented by letter from the Department to the employer. Employers must submit any subsequent plan modifications to the Department for review and approval. If the employer objects to any condition or limitation in the Department's letter, the employer may request a contested case hearing before the Commission or its authorized representative. Such a request for hearing must be made in writing to the Director and received by the Department within 20 days of the date of mailing of the letter. Any subsequent hearing will be conducted pursuant to the provisions of ORS Chapter 183 and OAR Chapter 340, Division 11.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0180 What is a Good Faith Effort?

Employers who participate in an equivalent commute trip reduction program and then fail to meet their target auto trip rates must demonstrate that a good faith effort was made to meet the target trip reduction. An employer must demonstrate good faith effort by submitting written documentation of the following:

- (1) Employer established a baseline auto trip rate and corresponding target auto trip rate and conducted follow-up surveys to determine employee commute patterns and progress toward achieving the target trip reduction;
- (2) Employer selected trip reduction strategies that had a reasonable likelihood of success based on documentation in the Department's report Alternatives to Single Occupant Vehicle Trips or equivalent documentation (for example, auto trip reduction experience by employers in a comparable region); and
- (3) Employer fully implemented all selected strategies, or their equivalent, on a schedule that would have reasonably allowed the employer to achieve the target auto trip rate by the target compliance deadline.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0190 How Does the ECO Program Affect New Employers, Expanding Employers and Employers Relocating Within the Portland AQMA?

(1) An expanding employer who increases the number of employees at any single work site within the Portland AQMA to more than 100 after the effective date of the ECO rules must comply with the ECO rules. An employer relocating a work site within the Portland AQMA is considered a new employer upon relocation and must set a new baseline and target auto trip rate and comply with the ECO rules. Relocating employers may apply for credit for existing trip reductions that carry over to the new work site. Expanding employers and new employers must meet the requirements of this rule within the following number of days after they become affected employers:

- (a) Survey employees and submit survey findings and a registration form within 90 days;
- (b) Select strategies that have the potential to meet the target trip reduction and submit a trip reduction plan or notice of intent to reduce trips without an approved plan within 180 days; and
- (c) Conduct follow-up surveys every two years and report findings to the Department within 90 days of surveying.

(2) An employer affected by this rule may choose to demonstrate compliance through 340-242-0260(5) (*use of area average rate*).

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0200 Can a New or Relocating Employer Comply with ECO Through Restricted Parking Ratios?

An employer locating at a work site within the AQMA after the effective date of the ECO rules will be exempt from the ECO rules for that work site if:

(1) The new work site meets the requirements of the Department's Voluntary Parking Ratio rules (OAR 340-242-0300 through 340-242-0390); or

(2) If the employer provides free or subsidized parking, including leased parking, above the Department's maximum parking ratio to any employees at the work site (except to employees required to have a vehicle at the work site as a condition of employment), then either:

(a) A transportation allowance is offered to those employees provided free or subsidized parking that exceeds the Department's maximum parking ratio. The transportation allowance must be offered in lieu of the free or subsidized parking in an amount equal to or greater than the amount of the subsidy, but not to exceed the

maximum allowed for transit by the Internal Revenue Service for the Qualified Transportation Fringe Benefits included under Section 132(F), Notice 94-3 of the tax code; or

(b) All employees at the work site are offered a transit subsidy or its equivalent at least equal to 50 percent of the value of a Tri-Met all-zone transit pass.

(3) An employer must submit this documentation with an exemption application to the Department by the deadline for plan or notice submittal and certify that they continue to meet these requirements every two years. Employers meeting the requirements of this rule do not need to conduct a baseline survey of employees. However, employers whose applications are denied must then conduct a baseline survey and submit the findings to the Department within 90 days of notice by the Department.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0210 Can an Existing Employer Comply with ECO Through Restricted Parking Ratios?

An employer will be considered to have met the target trip reduction and is exempt from the ECO rules if the employer provides documentation of the following. An employer must submit this documentation with an exemption application to the Department by the deadline for plan or notice submittal and certify that they continue to meet these requirements every two years. Employers meeting the requirements of this rule do not need to conduct a baseline survey of employees. However, employers whose applications are denied must then conduct a baseline survey and submit the findings to the Department within 90 days of notice by the Department.

(1) Work site is located in an area with maximum parking ratio requirements at least as stringent as the Department's maximum parking ratios (see OAR 340-242-0300 through 340-242-0390);

(2) Free or subsidized all-day parking is generally unavailable within a one-half mile radius of the work site; and

(3) If the employer provides free or subsidized parking, including leased parking, above the Department's maximum parking ratio to any employees at the work site (except to employees required to have a vehicle at the work site as a condition of employment), then either:

(a) A transportation allowance is offered to those employees provided free or subsidized parking that exceeds the Department's maximum parking ratio. The transportation allowance must be offered in lieu of the free or subsidized parking in an amount equal to or greater than the amount of the subsidy, but not to exceed the maximum allowed for transit by the Internal Revenue Service for the Qualified Transportation Fringe Benefits included under Section 132(F), Notice 94-3 of the tax code; or

(b) All employees at the work site are offered a transit subsidy or its equivalent at least equal to 50 percent of the value of a Tri-Met all-zone transit pass.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0220 What if an Employer Has More Than One Work Site Within the Portland AQMA?

(1) An employer with more than one work site in the Portland AQMA may average its target trip reduction among those work sites in the AQMA. An employer must survey all included work sites every two years. Survey findings may be reported in aggregate or separately.

(2) One trip reduction plan may be developed for all work sites of an individual employer, but strategies must be selected based on the specific transportation characteristics of each work site.

(3) Work sites with 100 or fewer employees may be included in the interest of averaging trip reductions among all work sites. Those work sites must then survey and findings must be included in the employer's report to the Department.

340-242-0230 Can Employers Submit a Joint Plan?

Different employers with work sites located near each other and with common transportation needs may develop a joint trip reduction plan for all affected work sites. The plan must address each work site individually and each employer is individually accountable for meeting all ECO requirements. Each employer must report survey findings for each specific work site, and the ten percent trip reduction target applies to each employer's work sites. Trip reductions may not be averaged among employers.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0240 Are There Alternatives to Trip Reduction?

Alternatives to trip reduction include:

(1) Employers may purchase surplus trip reductions from other employers required to comply with ECO to meet part or all of the target trip reduction. Surplus trips must be documented by survey before sale and must be maintained. The Department must approve proposed transactions prior to finalizing. The Department will confirm surplus trip transactions by letter to both employers.

(2) Employers may substitute equivalent emission reductions to meet their target trip reduction. Equivalent emission reduction proposals must be included in the employer's trip reduction plan or submitted with the notice of intent to comply without an approved plan. In order to receive credit as an equivalent emission reduction, the Department must review and approve proposals before an employer implements the strategy. Employers selecting equivalent emission reduction strategies must meet the following requirements:

- (a) Employer sufficiently documented emission calculations so that the Department can quantify and verify the reduction;
- (b) Employer calculated equivalent emissions according to guidelines issued by the Department. The Department must approve any alternate or modified calculation methods;
- (c) Employer submits, on the same schedule as the biennial survey findings, documentation of actual equivalent emissions achieved;
- (d) Equivalent emission reductions may not be bought or sold between employers for the purpose of meeting the target trip reduction.

(3) Employers may contribute to an emission reduction fund at an annual rate of \$100 per employee at the work site (see OAR 340-242-0060 to determine count of employees). An employer making partial progress toward the target trip reduction may choose to contribute proportionate to the percentage of the target trip reduction yet to be achieved. The emission reduction fund will be administered through Metro for new transit service, local jurisdiction alternative mode projects, and business-based Transportation Management Association (TMA) programs that result in trip reductions. Employers must make annual payments over the compliance period. The amount will be adjusted annually according to the Consumer Price Index.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0250 What Alternatives Qualify as Equivalent Emission Reductions?

Equivalent emission reduction alternatives at the work site include, but are not limited to, the following:

- (1) Use of alternative fueled vehicles (employer or employee vehicles);
- (2) Vehicle scrappage (older high-emitting employee or employer vehicles);
- (3) Forklift replacement (lower emitting technology);

- (4) Lawn mower replacement (may include lawn mowers employees use at home if home is located within the Portland AQMA);
- (5) Motor boat motor replacement (may include motor boats owned by employees who live within the Portland AQMA);
- (6) Reductions in air pollution emissions from non-vehicle sources at the work site;
- (7) Reductions in non-commute vehicle traffic to the work site or within the work site.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0260 Can Employers Get Credit for Existing Trip Reduction Programs?

The Department may grant credits for documented trip reductions that occurred at an employer's work site any time before establishing a baseline auto trip rate. Credits will be granted upon approval by the Department. The Department will approve or deny the employer's request for credit by letter to the employer. If the employer objects to any condition or limitation in that letter, the employer may request a contested case hearing as described in OAR 340-242-0170.

- (1) Employers must demonstrate that pre-existing trip reduction programs resulted in actual trip reductions by providing:
 - (a) A description of the trip reduction programs and how they were implemented;
 - (b) The period of time that the programs have been in place;
 - (c) Survey findings or comparable documentation that demonstrates a ten percent reduction in the auto trip rate for the work site; and
 - (d) Current survey findings or comparable documentation verifying the employer has maintained the reduced auto trip rate.
- (2) Applications for credits must be submitted to the Department with the trip reduction plan or notice of intent to reduce trips through participation in an equivalent commute trip reduction program.
- (3) Credits will not be discounted and will be granted on a one-for-one basis.
- (4) Trips documented for the purpose of receiving credits may not be bought or sold to other employers for the purpose of meeting the target trip reduction.
- (5) Alternately, an employer may choose to provide documentation that its single occupant vehicle commute rate, at the time of registration, is equal to or less than two standard deviations below the mean rate for the Metro transportation zone which includes the employer's work site. Commute data for Metro's transportation zones is available from the Department.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0270 Are Exemptions Allowed if an Employer is Unable to Reduce Trips or Take Advantage of Alternate Compliance Options?

- (1) An employer is fully exempt from OAR 340-242-0010 through 340-242-0290 if the employer submits reasonable documentation for each of the following:
 - (a) Work site is located in an area for which:
 - (A) Public transit service during work shift changes is less frequent than thirty minute intervals; or

(B) The public transit service point is further than one-half mile from employee's usual parking area; or

(C) Work shift changes occur between 8:30 p.m. and 5:30 a.m..

(b) Upon completing the employee survey and providing reasonable promotion for a carpool matching program, employees indicating a willingness to car/vanpool cannot be matched within the work site or through Tri-Met's carpool matching database or employee turnover rate is greater than 50 percent per year;

(c) The nature of employees' work requires them to perform their work at the work site or during specific hours and days, eliminating the possibility of telecommuting or compressed work weeks/hours; and

(d) No options exist for the employer to achieve equivalent emission reductions at no net annualized cost to the employer (including both capital and operating costs).

(2) Partial exemptions.

(a) The Department will grant a partial exemption for that portion of an employer's work force for which sections (1)(a) through (c) of this rule apply;

(b) The Department will grant a partial exemption for section (1)(d) of this rule in direct proportion to the remaining work trips to be reduced after quantifying all available equivalent emission reductions.

(3) Employers must submit requests for partial or total exemptions to the Department, on application forms provided by the Department, by the deadline for plan or notice submittal. The Department will approve or deny the employer's request for exemption by letter to the employer. If the employer objects to any condition or limitation in that letter, the employer may request a contested case hearing as described in OAR 340-242-0170.

(4) Employers must renew requests for exemptions every three years.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0280 Participation in the Industrial Emission Management Program

Employers that donate unused Plant Site Emission Limit (PSEL) to the Department's Industrial Emission Management program (see OAR 340-242-0400 through 340-242-0440) are exempt from the ECO rules.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0290 What Kind of Records Must be Kept and for How Long?

Employers must maintain records at the work site or other central location within the Air Quality Maintenance Area for at least three years, and must make those records available to the Department upon request. Records must include:

(1) The contents and results of employee surveys or other information gathering efforts;

(2) A full description of all measures and incentives offered to employees and the associated employee responses;

(3) Other information associated with the development, implementation, evaluation, or modification of the trip reduction program.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

VOLUNTARY MAXIMUM PARKING RATIO PROGRAM

340-242-0300 What is the Voluntary Parking Ratio Program?

The Voluntary Parking Ratio Program encourages property owners to voluntarily locate and design facilities that need less parking by building in a more pedestrian, bicycle and transit friendly manner.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0310 Who can Participate in the Voluntary Parking Ratio Program?

Any property owner constructing a new development or a re-development of an existing site that adds new building floor area and requires new parking spaces in the Portland Air Quality Maintenance Area (AQMA) for the specific land uses defined below in 340-242-0320.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0320 Definitions of Terms and Land Uses

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-242-0300 through 340-242-0390. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0300 through 340-242-0390.

(1) General Definitions:

- (a) “AQMA” means the Portland Air Quality Maintenance Area as defined in OAR 340-204-0010.
- (b) “CCTMP” means the Central City Transportation Management Plan as defined by ordinance number 169535 and resolution number 35472, adopted by City of Portland City Council December 6, 1995, effective January 8, 1996.
- (c) “Department” means the Department of Environmental Quality.
- (d) “Director” means the Director or the Director’s designee.
- (e) “Employee Commute Options Program” or “Employee Commute Options Rule” means OAR 340-242-0010 through 340-242-0290.
- (f) “Gross Floor Area” means the total area expressed in square feet of all floors of a building that include halls, stairwells, elevator shafts, basements, mezzanines or upper floors but excludes structured parking. Gross floor area is measured to the outside surfaces of exterior wall.
- (g) “Gross Leasable Area” means total building area expressed in square feet designed for tenant occupancy and exclusive use that includes basements, mezzanines or upper floors, but does not include stairwells, elevator shafts. Gross leasable area is measured to the inside surfaces of exterior walls. Gross leasable area is that area for which tenant pays rent; it is the area that produces income.
- (h) “OAR” means Oregon Administrative Rules.
- (i) “Parking Ratio Permit” means a permit in letter form issued by the Department, bearing the signature of the Director or designee, that specifies the property owner’s requirements under the parking ratio program.
- (j) “Parking Ratio Program” means the Voluntary Parking Ratio Program, OAR 340-242-0300 through 340-242-0390.
- (k) “Parking Space” means any off-street area of space below, above or at ground level, open or enclosed that is used for parking one motor vehicle at a time. If the property owner intends to stack cars (valet parking) on-site and off-site, the total area or areas used for parking must be calculated as parking spaces, not just the striped parking spaces. This does not include handicapped parking spaces officially designated pursuant to the

Americans with Disabilities Act.

- (1) “Property Owner” means individual, corporation, partnership, limited partnership (reflecting the proposed development), association, government, firm or joint stock company who owns title to real property.
- (2) Land Use Definitions:
 - (a) “Bank with Drive-In and Walk-In” means banking facilities for motorists remaining in a vehicle and for someone walking into the building.
 - (b) “Commercial Retail” means either a free standing store or an integrated group of retail establishments planned, developed and managed as a unit. These retail facilities offer a variety of products, but do not include a separate grocery store.
 - (c) “Fast-food Restaurant with Drive-In Window” means a fast food restaurant with motor vehicle drive-in window order service.
 - (d) “General Office” means an office usually housing single or multiple tenants including, but not limited to, professional services; characterized by landscaped office park or campus-type atmosphere; a group of buildings where the tenant space is flexible to house a variety of uses including, but not limited to, start-up companies or small mature companies that require a variety of space, such as research and development, engineering, or biotechnology; or a facility that houses one or more agencies of city, county, state, federal or other governmental unit. These facilities may also include tenant and support services including, but not limited to, banks, restaurants and other small retail support services.
 - (e) “Light Industrial, Industrial Park, Manufacturing” means an area containing a number of industrial or related facilities such as office, warehouse, research and associated functions, manufacturing and fabrication; facilities that are diversified which may have a large number of small businesses and others with one or two dominant industries; or facilities with features including, but not limited to, craneways, heavy power, grade and/or dock level doors.
 - (f) “Medical Clinic/Hospital/Dental Clinic” means a facility that provides diagnostic outpatient care and is equipped to provide prolonged in-patient medical care.
 - (g) “Movie Theater” means indoor cinemas showing motion pictures. Live stage performances are not included in this land use.
 - (h) “Other Restaurants” means other establishments serving food for immediate consumption that are not classified as fast food with drive-in.
 - (i) “Place of Worship” means church, synagogue or other religious facility.
 - (j) “Schools” means a facility attended by students, including senior high school, junior college, technical college and university levels.
 - (k) “Sports Club and Recreational Facilities” means a facility offering multiple types of fitness activities including, but not limited to, basketball, tennis, racquetball, volleyball and basketball courts, weight training, aerobics, jazzercise, running. The facility may also include a sauna, swimming pool, game rooms and/or meeting rooms.
 - (l) “Supermarket” means a retail store selling a complete assortment of food and food preparation materials, household items, and other retail items; may include pharmacies, delicatessens, and snack bars.

(m) “Tennis and Racquetball Courts” means a facility where the predominant activity is tennis courts and/or racquetball courts; it may include exercise facilities.

(n) “Warehouse” means a facility that is primarily devoted to the storage of materials, but may also include some office and maintenance areas.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0330 How Does a Property Owner Comply with the Voluntary Parking Ratio Program?

A property owner complies by building no more than the number of parking spaces specified by maximum parking ratios in OAR 340-242-0390 and obtaining a Parking Ratio Permit from the Department.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0340 What are the Incentives for Complying with the Voluntary Parking Ratio Program?

(1) Employers in the development receive an exemption from the Employee Commute Options program in OAR 340-242-0010 through OAR 340-242-0290.

(2) Property owners who require other air and water permits from the Department receive priority permit processing.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0350 Why Do I Need a Parking Ratio Permit?

(1) The parking ratio permit formally documents the agreement with the Department to construct parking within the maximum parking ratio and it provides an enforcement mechanism if the property owner builds more parking without the Department’s approval.

(2) The parking ratio permit formally exempts applicable employers from the Employee Commute Options rule requirements.

(3) The parking ratio permit formally provides priority permit processing for other air and water permits from the Department.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0360 What is Required to Obtain a Parking Ratio Permit?

Any property owner who chooses to limit construction of parking facilities at its site must submit the following information:

(1) A completed permit application form;

(2) Identification of the proposed land uses in OAR 340-242-0320;

(3) A map showing the location of the site;

(4) A site plan showing the location of the parking and the total number of parking spaces proposed;

(5) Quantification of the gross leasable area and gross floor area of the buildings proposed for the site and the associated parking ratio;

(6) Facts about design and location features that will allow the facility to meet the trip demand with less parking.

This can be documented by completing the Department's Parking Ratio Checklist or providing similar documentation.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0370 How is the Parking Ratio Program Enforced?

(1) A Parking Ratio Permit is a written permit in letter form issued by the Department bearing the signature of the Director or his/her designee.

(2) The general permitting provisions of Oregon Administrative Rules, Chapter 340, Division 14 apply (issuance, renewal, denial, suspension), except that OAR 340-014-0025 (public notice requirement) does not apply.

(3) An employer is no longer exempt from the ECO rule requirements if the property owner fails to comply with the terms of the Parking Ratio letter permit.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0380 When Will the Department Act on a Submitted Permit Application?

(1) The Department will notify the applicant within 15 days of filing an application if further information is needed or if the application is complete.

(2) The Department will grant or deny a letter permit within 45 days of receiving a complete application.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0390 What are the Applicable Parking Ratios?

TABLE 1.

**DEPARTMENT OF ENVIRONMENTAL QUALITY
VOLUNTARY MAXIMUM PARKING RATIOS FOR THE PORTLAND AQMA**

Parking ratios are based on spaces per 1,000 sqft GLA means gross leasable area
GFA means gross floor area

CCTMP Areas: Downtown parking sectors 1-6, University District and River District parking sectors 3-5 of the CCTMP

Bank with Drive-In: River District parking sectors 3-5 — 4.3 (gfa) Bank with Drive-In is a prohibited land use in Downtown sectors 1-6, University District.

Bank with Walk-In — 1.0-2.0* (gfa)

Place of Worship — .25*(gfa)

Commercial Retail** — 1.0-2.0* (gfa)

Fast Food with Drive Thru: River District parking sectors 3-5 — 9.9 (gfa) Fast Food with Drive Thru is a prohibited land use in Downtown sectors 1-6, University District.

Other Restaurants — 1.0-2.0* (gfa)

General Office — .7-2.0* (gfa)

Light Industrial, Industrial Park, Manufacturing — .7 (gfa)

Medical & Dental — .07-2.0* (gfa)

Movie Theater — .25 (gfa)

Schools — 1.0-2.0* (gfa)

Sports Club & Recreational Facility — 1.0-2.08 (gfa)

Supermarket** — 1.0-2.0* (gfa)

Tennis & Racquetball Court — 1.0-2.0* (gfa)

Warehouse — .7 (gfa) This parking ratio applies to all sizes of warehouses

CCTMP Areas: Central Eastside parking sectors 2 & 3, Goose Hollow and Lloyd District of the CCTMP

Bank with Drive-In: Central Eastside parking sectors 2 & 3 and Lloyd District — 4.3 (gla) Bank with Drive-In is a prohibited land use in Goose Hollow.

Bank with Walk-In — 4.3 (gla)

Place of Worship — .5 (gfa)

Commercial Retail** — 4.1 (gfa)

Fast Food with Drive-Thru: Central Eastside parking sectors 2 & 3 and Lloyd District — 9.9 (gla) Fast Food with Drive Thru is a prohibited land use in Goose Hollow.

Other Restaurants — 15.3 (gla)

General Office — 2.0-2.5 (gfa)

Light Industrial, Industrial Park, Manufacturing — 1.6 (gfa)

Medical & Dental — 3.9 (gla)

Movie Theater — .3 (spaces per number of seats)

Schools — .2 (spaces per number of students & staff)

Sports Club & Recreational Facility — 4.3 (gla)

Supermarket** — 2.9 (gla)

Tennis & Racquetball Court — 1.0 (gla)

Warehouse — .3 (gla) This parking ratio applies to warehouses that are greater than 150,00 sq. ft.

CCTMP Areas: Lower Albina, North Macadam, Central Eastside parking sectors 1, 4-6 and River District 1 & 2 of the CCTMP

Bank with Drive-In — 4.3 (gla)

Bank with Walk-In — 4.3 (gla)

Place of Worship — .5 (gfa)

Commercial Retail** — 4.1 (gfa)

Fast Food with Drive-Thru — 9.9 (gla)

Other Restaurants — 15.3 (gla)

General Office — 2.7 (gla)

Light Industrial, Industrial Park, Manufacturing — 1.6 (gfa)

Medical & Dental — 3.9 (gla)

Movie Theater— .3 (spaces per number of seats)

Schools — .2 (spaces per number of students & staff)

Sports Club & Recreational Facility— 4.3 (gla)

Supermarket** — 2.9 (gla)

Tennis & Racquetball Court — 1.0 (gla)

Warehouse — .3 (gla) This parking ratio applies to warehouses that are greater than 150,000 sq. ft.

Outside CCTMP: Areas outside of CCTMP areas, but inside AQMA boundary

Bank with Drive-In — 4.3 (gla)

Bank with Walk-In — 4.3 (gla)

Place of Worship — .5 (gfa)

Commercial Retail**— 4.1 (gfa)

Fast Food with Drive-Thru — 9.9 (gla)
 Other Restaurants — 15.3 (gla)
 General Office — 2.7 (gla)
 Light Industrial, Industrial Park, Manufacturing — 1.6 (gfa)
 Medical & Dental — 3.9 (gla)
 Movie Theater — .3 (spaces per number of seats)
 Schools — .2 (spaces per number of students & staff)
 Sports Club & Recreational Facility — 4.3 (gla)
 Supermarket** — 2.9 (gla)
 Tennis & Racquetball Court — 1.0 (gla)
 Warehouse — .3 (gla) This parking ratio applies to warehouses that are greater than 150,000 sq. ft.

Note: *See parking ratios for specific parking sectors in Central City Transportation Management Plan (CCTMP) adopted by the Portland City Council December 6, 1995.

Note: **See the CCTMP for definition of the land uses Commercial Retail and Supermarket that are located in the CCTMP.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

INDUSTRIAL EMISSION MANAGEMENT PROGRAM

340-242-0400 Applicability

(1) OAR 340-242-0430 through 340-242-0440 apply to all sources of VOC or NO_x that are required to provide a net air quality benefit under the provisions of OAR 340-225-0090 for the Portland Air Quality Maintenance Area (AQMA).

(2) OAR 340-242-0430 and 340-242-0440 apply to new major sources and major modifications that emit CO within the Portland Metro Area, including new major sources and major modifications outside the Portland Metro Area that have a significant air quality impact within this area.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0410 Definition of Terms

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-242-0400 through 340-242-0440. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0400 through 340-242-0440.

(1) "PSEL" means the Plant Site Emission Limit of an individual air pollutant specified in an Air Contaminant Discharge Permit or Title V permit issued to a source by the Department, pursuant to OAR 340 division 216 or 218.

(2) "Unused PSEL" means the difference between a source's actual emissions and its permitted level or PSEL in 1990 or 1992, whichever is lower, as determined through the Department's emission inventory data.

(3) "Unused PSEL Donation Source" means any source that voluntarily returned to the Department unused PSEL, as part of the Unused PSEL Donation Program in OAR 340-242-0420.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0420 Unused PSEL Donation Program

(1) This program encourages owners or operators of VOC and NO_x sources identified in OAR 340-242-0400(1) to donate unused PSEL to the Department. Under this program, donations can be either permanent or temporary. For

a source to participate in this program it must have entered into an agreement with the Department prior to January 1, 2006.

(2) VOC sources donating at least 35 percent of their unused PSEL and NO_x sources donating at least 50 percent of their unused PSEL will receive the following incentives and considerations from the Department for participating in this program:

(a) Exemption from the Employee Commute Options (ECO) Program in OAR 340-242-0010 through 340-242-0290 for the duration of the Portland Ozone Maintenance plan;

(b) Priority permit processing for any required air quality permit;

(c) In accordance with OAR 340-242-0430 and 340-242-0440(1), priority use of up to 50 percent of any remaining growth allowance. This applies only to sources making permanent donations, pursuant to section (3) of this rule; and

(d) Other considerations may be added to the donation agreement on a case-by-case basis, consistent with the Department's rules and statutes.

(3) The Department will adjust the PSEL of sources providing permanent donations to reflect the emissions donated. Permanent donations will result in adjustment to the source's baseline emission rate and PSEL, consistent with the definition of "major modification" under OAR 340-200-0020 and changes to PSELs required by rule under OAR 340-222-0040.

(4) Sources participating in this program must enter into a donation agreement with the Department that identifies the commitments of both parties. Any such agreement is legally binding and enforceable.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0430 Industrial Growth Allowances

(1) This rule establishes industrial growth allowances for sources identified in OAR 340-242-0400. The amount of each growth allowance is defined in the State Implementation Plan and is on file with the Department.

(2) The owner or operator of a proposed new major source or major modification emitting VOCs, NO_x, or CO may obtain a portion of the respective growth allowance pursuant to OAR 340-242-0440.

(3) If no emissions remain in the respective growth allowance, the owner or operator of the proposed major source or major modification shall provide offsets for CO emissions at a 1 to 1 ratio, and for VOC and NO_x emissions at a 1.1 to 1 ratio (i.e., demonstrate a 10% new reduction).

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

340-242-0440 Industrial Growth Allowance Allocation

(1) The owner or operator of a proposed new major source or major modification emitting VOCs, NO_x, or CO, as identified in OAR 340-242-0400, may obtain a portion of any remaining emissions in the respective growth allowance in accordance with procedures described in the State Implementation Plan that is on file with the Department, and based on the following conditions:

(a) Access is on a first-come-first-served basis, based on the submittal date of a complete permit application;

(b) Unused PSEL donation sources that meet the donation criteria specified in OAR 340-242-0420(2) have priority access to their respective growth allowance as a "tie-breaker" over non-donation sources;

(c) Except as provided below, no single source may receive an emissions allocation of more than 1,000 tons of either VOC or NO_x or more than 50% of any remaining growth allowance; and

(d) A single source must apply to the Environmental Quality Commission to receive more than 1,000 tons of VOC or NO_x, but in no case more than 50% of the remaining growth allowance. To apply, sources must submit air quality and other information as required by the Department justifying its request and must include information on significant economic, employment, or other benefits to the Portland area that will result from the proposed new major source or major modification, and the availability of emissions offsets. DEQ will evaluate ozone levels and expected trends to determine whether the proposed facility poses any risk to maintaining compliance with the ozone air quality standard prior to making a recommendation to the EQC regarding the source application.

(2) The amount of the CO growth allowance that can be allocated is identified in the Portland Area Carbon Monoxide Maintenance Plan, Section 4.58 of Volume 2 of the State Implementation Plan on file with the Department.

State Effective: 4/12/2007; EPA effective: 1/18/2012; 76 FR 78571

GASOLINE VAPORS FROM GASOLINE TRANSFER AND DISPENSING OPERATIONS

340-242-0500 Purpose and Applicability

(1) Gasoline vapors contribute to the formation of ozone. OAR 340-242-0500 through 340-242-0520 require the control of gasoline vapors from gasoline transfer and dispensing operations.

(2) OAR 340-242-0500 through 340-242-0520 apply to gasoline dispensing facilities located within Clackamas, Multnomah and Washington Counties.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0510 Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-242-0500 through 340-242-0520. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0500 through 340-242-0520.

(1) "Equivalent control" means the use of alternate operational and/or equipment controls for the reduction of gasoline vapor emissions, that have been approved by the Department, such that the aggregate emissions of gasoline vapor from the facility do not exceed those from the application of defined reasonably available control technology.

(2) "Gasoline" means any petroleum distillate having a Reid vapor pressure of four pounds per square inch (28 kilopascals) or higher, used as a motor fuel.

(3) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle, boat, or airplane gasoline tanks from stationary storage tanks.

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

(5) "Stage I vapor collection system" means a system where gasoline vapors are forced from a tank into a vapor-tight holding system or vapor control system through direct displacement by the gasoline being loaded.

(6) "Stage II vapor collection system" means a system where at least 90 percent, by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling are transferred to a vapor-tight holding

system or vapor control system.

(7) "Substantially modified" means a modification of an existing gasoline-dispensing facility which involves the addition of one or more new stationary gasoline storage tanks or the repair, replacement or reconditioning of an existing tank.

(8) "Vapor control systems" means a system that prevents emissions to the outdoor atmosphere from exceeding 4.7 grains per gallon (80 grams per 1,000 liters) of petroleum liquid loaded.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0520 General Provisions

(1) Notwithstanding the requirements of OAR 340-232-0070, no person shall transfer or allow the transfer of gasoline into storage tanks, at gasoline-dispensing facilities located in Clackamas, Multnomah or Washington Counties, whose annual throughput exceeds 120,000 gallons, unless the storage tank is equipped with:

(a) A stage I vapor collection system consisting of a vapor-tight return line from the storage tank, or its vent, to the gasoline transport vehicle;

(b) A properly installed on-site vapor control system connected to a vapor collection system; or

(c) An equivalent control system.

(2) A stage II vapor collection system is not required at gasoline-dispensing facilities that are not subject to the stage I requirements of this section.

(3) No owner and/or operator of a gasoline-dispensing facilities shall transfer or allow the transfer of gasoline into a motor vehicle fuel tank at gasoline-dispensing facilities located in Clackamas, Multnomah or Washington Counties whose annual throughput exceeds 600,000 gallons, unless the gasoline-dispensing facility is equipped with a stage II vapor collection system which must be approved by the Department before it is installed.

[NOTES:

-1- Underground piping requirements are described in OAR **340-150-001** through **340-150-003** and **40 CFR 280.20(d)**. Systems installed according to American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System" or Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems" or American National Standards Institute Standard B31.4 "Liquid Petroleum Transportation Piping System" are considered approved systems.

-2- Above-ground stage II equipment requirements are based on systems recently approved in other states with established stage II program. See the Oregon Department of Environmental Quality, Air Quality Division, for the list of approved equipment. Any other proposed equivalent systems must be submitted to the Department of Environmental Quality, Air Quality Division, for approval before installation.]

(4) Owners and/or operators of gasoline storage tanks, gasoline transport vehicles and gasoline-dispensing facilities subject to stage I or stage II vapor collection requirements must:

(a) Install all necessary stage I and stage II vapor collection and control systems, and make any modifications necessary to comply with the requirements;

(b) Provide adequate training and written instructions to the operator of the affected gasoline-dispensing facility and the gasoline transport vehicle;

(c) Replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the stage I and stage II vapor collection systems; and

(d) Connect and ensure proper operation of the stage I and stage II vapor collection systems whenever gasoline is being loaded, unloaded or dispensed.

(5) Approval of a stage I or stage II vapor collection system by the Department does not relieve the owner and/or operator of the responsibility to comply with other applicable codes and regulations pertaining to fire prevention, weights and measures and safety matters.

(6) Regarding installation and testing of piping for stage I and stage II vapor collection systems:

(a) Piping shall be installed in accordance with standards in OAR 340 Division 150;

(b) Piping shall be installed by a licensed installation service provider pursuant to OAR 340 Division 160; and

(c) Piping shall be tested prior to being placed into operation by an installation or tank tightness testing service provider licensed pursuant to OAR 340 Division 160.

(7) Owners and/or operators of gasoline-dispensing facilities subject to stage II vapor collection requirements must obtain and maintain a current stage II vapor collection permit from the Department. This permit shall be displayed or kept on file at the facility:

(a) Persons applying for this permit for any time period beginning after December 31, 1999 shall be subject to a biennial fee of \$200;

(b) The Department may issue stage II vapor collection permits for up to 10 years;

(c) Persons applying for a new permit with an effective date beginning before December 31, 1999 or in an odd numbered year shall pay the annual fee of \$100 and then will be billed for the biennial fee for the next biennial period;

(d) Fees shall be paid at the time of application and by December 1 in odd numbered years for the next biennial period.

(8) When a facility changes ownership, the new owner shall obtain a new stage II vapor collection permit, as described in section (7) of this rule above, within 60 days of the change of ownership.

(9) Persons subject to this rule shall apply for a renewal stage II vapor collection permit not less than 60 days prior to the expiration date of the existing permit. The biennial fee shall be included with the application for renewal.

[**NOTE:** Test methods are based on methods used in other states with established stage II programs. See the Oregon Department of Environmental Quality, Air Quality Division, for copies of the approved test methods.]

State effective: 10/14/1999; Effective: 3/24/2003; 68 FR 2891

MOTOR VEHICLE REFINISHING

340-242-0600 Applicability

OAR 340-242-0600 through 340-242-0630 apply to any person who owns, leases, operates or controls a motor vehicle refinishing facility in the Portland AQMA.

State effective: 10/14/1999; Effective: 3/24/2003; 68 FR 2891

340-242-0610 Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-242-0600 through 340-242-0630. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in OAR 340-242-0600 through 340-242-0630.

- (1) “Department” means the Oregon Department of Environmental Quality.
- (2) “High Volume, Low Pressure Spray”, or “HVLP” means equipment used to apply coatings with a spray device which operates at a nozzle air pressure between 0.1 and 10 pounds per square inch gravity (psig).
- (3) “Motor Vehicle” means a vehicle that is self-propelled or designed for self-propulsion as defined in ORS 801.360.
- (4) “Motor Vehicle Refinishing” means the application of surface coating to on-road motor vehicles or non-road motor vehicles, or their existing parts and components, except Original Equipment Manufacturer (OEM) coatings applied at manufacturing plants.
- (5) “Motor Vehicle Refinishing Coating” means any coating designed for, or represented by the manufacturer as being suitable for motor vehicle refinishing.
- (6) “Motor Vehicle Refinishing Facility” means a location at which motor vehicle refinishing is performed.
- (7) “Non-Road Motor Vehicle” means any motor vehicle other than an on-road motor vehicle. “Non-Road Motor Vehicle” includes, but is not limited to, fixed load vehicles, farm tractors, farm trailers, all-terrain vehicles, and golf carts as these vehicles are defined in ORS Chapter 801.
- (8) “On-Road Motor Vehicle” means any motor vehicle which is required to be registered under ORS 803.300 or exempt from registration under ORS 803.305(5), 803.305(6), or 803.305(15) through 803.305(19). “On-Road Motor Vehicle” includes, but is not limited to: passenger cars, trucks, vans, motorcycles, mopeds, motor homes, truck tractors, buses, tow vehicles, trailers other than farm trailers, and camper shells.
- (9) “Person” means the federal government, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever.
- (10) “Portland Air Quality Maintenance Area” or “Portland AQMA” is defined in OAR 340-204-0010. (The Portland AQMA includes portions of Clackamas, Multnomah and Washington Counties.)
- (11) “Public Highway” means every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.
- (12) “Vehicle” means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.
- (13) “Volatile Organic Compound” or “VOC” means those compounds of carbon defined in OAR 340-022-0102.
State effective: 10/14/1999; Effective: 3/24/2003; 68 FR 2891

340-242-0620 Requirements for Motor Vehicle Refinishing in Portland AQMA

Except as provided in section (3) of this rule, persons performing motor vehicle refinishing of on-road motor vehicles within the Portland AQMA shall:

- (1) Clean any spray equipment, including paint lines, in a device which:
 - (a) Minimizes solvent evaporation during the cleaning, rinsing, and draining operations;

- (b) Recirculates solvent during the cleaning operation so the solvent is reused; and
 - (c) Collects spent solvent to be available for proper disposal or recycling; and
- (2) Apply motor vehicle refinishing coatings by one of the following methods:
- (a) High Volume Low Pressure spray equipment, operated and maintained in accordance with the manufacturer's recommendations;
 - (b) Electrostatic application equipment, operated and maintained in accordance with the manufacturer's recommendations;
 - (c) Dip coat application;
 - (d) Flow coat application;
 - (e) Brush coat application;
 - (f) Roll coat application;
 - (g) Hand-held aerosol cans; or
 - (h) Any other coating application method which can be demonstrated to effectively control VOC emissions, and which has been approved in writing by the Department.

(3) This rule shall not apply to any person who performs motor vehicle refinishing without compensation, and who performs refinishing on two or fewer on-road motor vehicles, or portions thereof, in any calendar year.

State effective: 10/14/1999; Effective: 3/24/2003; 68 FR 2891

340-242-0630 Inspecting and Testing Requirements

The owner or operator of any facility subject to OAR 340-242-0600 through 340-242-0630 shall, at any reasonable time, make the facility available for inspection by the Department.

State effective: 10/14/1999; Effective: 3/24/2003; 68 FR 2891

SPRAY PAINT

340-242-0700 Applicability

OAR 340-242-0700 through 340-242-0750 apply to any manufacturer, distributor, retailer or commercial applicator of spray paint for sale or use in the Portland AQMA.

State effective: 10/14/1999; Effective: 3/24/2003; 68 FR 2891

340-242-0710 Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in OAR 340-242-0700 through 340-242-0750. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in in OAR 340-242-0700 through 340-242-0750.

- (1) "Adhesive" means a product used to bond one surface to another.
- (2) "Anti-Static Spray" means a product used to prevent or inhibit the accumulation of static electricity.

- (3) “Art Fixative or Sealant” means a clear coating, including art varnish, workable art fixative, and ceramic coating, which is designed and labeled exclusively for application to paintings, pencil, chalk, or pastel drawings, ceramic art pieces, or other closely related art uses, to provide a final protective coating or to fix preliminary stages of art work while providing a workable surface for subsequent revisions.
- (4) “ASTM” means the American Society for Testing and Materials.
- (5) “Auto Body Primer” means an automotive primer or primer surfacer coating designed and labeled exclusively to be applied to a vehicle body substrate for the purpose of corrosion resistance and building a repair area which can be sanded to a smooth condition after drying.
- (6) “Automotive Bumper and Trim Product” means a product, including adhesion promoters and chip sealants, designed and labeled exclusively to repair and refinish automotive bumpers and plastic trim parts.
- (7) “Automotive Underbody Coating” means a flexible coating which contains asphalt or rubber and is labeled exclusively for use on the underbody of motor vehicles to resist rust, abrasion and vibration, and to deaden sound.
- (8) “Aviation Propeller Coating” means a coating designed and labeled exclusively to provide abrasion resistance and corrosion protection for aircraft propellers.
- (9) “Aviation or Marine Primer” means a coating designed and labeled exclusively to meet federal specification TT-P-1757.
- (10) “Belt Dressing” means a product applied on auto fan belts, water pump belting, power transmission belting, industrial equipment belting, or farm machinery belting to prevent slipping, and to extend belt life.
- (11) “Cleaner” means a product designed and labeled primarily to remove soil or other contaminants from surfaces.
- (12) “Clear Coating” means a coating which is colorless, containing resins but no pigments, except flattening agents, and is designed and labeled to form a transparent or translucent solid film.
- (13) “Coating Solids” means the nonvolatile portion of a spray paint, consisting of the film forming ingredients, including pigments and resins.
- (14) “Complying spray paint” means a spray paint which complies with the VOC content limits in OAR 340-242-0720.
- (15) “Consumer” means any person who purchases or acquires any spray paint for personal, family, or household use. Persons acquiring a spray paint product for resale are not considered consumers of that product.
- (16) “Commercial Applicator” means any person who purchases, acquires, applies, or contracts for the application of spray paint for commercial, industrial or institutional uses, or any person who applies spray paint in the course of an activity from which compensation is derived.
- (17) “Corrosion Resistant Brass, Bronze, or Copper Coating” means a clear coating formulated and labeled exclusively to prevent tarnish and corrosion of uncoated brass, bronze or copper metal surfaces.
- (18) “Department” means the Oregon Department of Environmental Quality.
- (19) “Distributor” means any person who sells or supplies spray paint for the purposes of resale or distribution in commerce. “Distributor” includes activities of a self-distributing retailer related to the distribution of products to

individual retail outlets. “Distributor” does not include manufacturers except for a manufacturer who sells or supplies spray paint products directly to a retail outlet. “Distributor” does not include consumers.

(20) “Dye” means a product containing no resins which is used to color a surface or object without building a film.

(21) “Electrical Coating” means a coating designed and labeled to be used exclusively to coat electrical components such as electric motor windings to provide electrical insulation or corrosion protection.

(22) “Enamel” means a coating which cures by chemical cross-linking of its base resin and is not resolvable in its original solvent.

(23) “Engine Paint” means a coating designed and labeled exclusively as such, which is used exclusively to coat engines and their components.

(24) “Environmental Protection Agency” or “EPA” means the United States Environmental Protection Agency.

(25) “Exact Match Finish, Automotive” means a topcoat which meets all of the criteria in subsections (a) through (c) of this section:

(a) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied automotive coating during the touch-up of automobile finishes;

(b) The product is labeled with the original equipment manufacturer’s name for which it was formulated; and

(c) The product is labeled with one of the following:

(A) The original equipment manufacturer’s (OEM) color code;

(B) The color name; or

(C) Other designation identifying the specific OEM color to the purchaser.

(d) Notwithstanding subsections (a) through (c) of this section, automotive clear coatings designed and labeled exclusively for use over automotive exact match finishes to replicate the original factory applied finish shall be considered to be automotive exact match finishes.

(26) “Exact Match Finish, Engine Paint” means a coating which meets all of the criteria in subsections (a) through (c) of this section:

(a) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied engine paint;

(b) The product is labeled with the original equipment manufacturer’s name for which it was formulated; and

(c) The product is labeled with one of the following:

(A) The original equipment manufacturer’s (OEM) color code;

(B) The color name; or

(C) Other designation identifying the specific OEM color to the purchaser.

(27) “Exact Match Finish, Industrial” means a coating which meets all of the criteria in sub-sections (a) through (c) of this section:

(a) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied industrial coating during the touch-up of manufactured products;

(b) The product is labeled with the original equipment manufacturer’s name for which it was formulated; and

(c) The product is labeled with one of the following:

(A) The original equipment manufacturer’s (OEM) color code;

(B) The color name; or

(C) Other designation identifying the specific OEM color to the purchaser.

(28) “Exempt compounds” means compounds of carbon specifically excluded from the definition of VOC.

(29) “Flat Paint Product” means a coating which, when fully dry, registers specular gloss less than or equal to 15 on an 85E gloss meter, or less than or equal to 5 on a 60E gloss meter, or which is labeled as a flat coating.

(30) “Flatting Agent” means a compound added to a coating to reduce the gloss of the coating without adding color to the coating.

(31) “Floral Spray” means a coating designed and labeled exclusively for use on fresh flowers, dried flowers, or other items in a floral arrangement for the purpose of coloring, preserving or protecting their appearance.

(32) “Fluorescent Coating” means a coating labeled as such which converts absorbed incident light energy into emitted light of a different hue.

(33) “Glass Coating” means a coating designed and labeled exclusively to be applied to glass or other transparent material, to create a soft, translucent light effect, or to create a tinted or darkened color while retaining transparency.

(34) “Ground/Traffic Marking Coating” means a coating designed and labeled exclusively to be applied to dirt, gravel, grass, concrete, asphalt, warehouse floors, or parking lots. Such coatings must be in a container equipped with a valve and sprayhead designed to direct the spray downward when the can is held in an inverted position.

(35) “High Temperature Coating” means a coating, excluding engine paint, which is designed and labeled exclusively for use on substrates which will, in normal use, be subjected to temperatures in excess of 400E Fahrenheit.

(36) “Hobby/Model/Craft Coating” means a coating which is designed and labeled exclusively for hobby applications and is sold in aerosol containers of 6 ounces in weight or less.

(37) “Ink” means a fluid or viscous substance used in the printing industry to produce letters, symbols or illustrations, but not to coat an entire surface.

(38) “Lacquer” means a thermoplastic film-forming finish dissolved in organic solvent, which dries primarily by solvent evaporation, and is resolvable in its original solvent.

(39) “Layout Fluid” or “Toolmaker’s Ink” means a coating designed and labeled exclusively to be sprayed on metal, glass or plastic, to provide a glare-free surface on which to scribe designs, patterns or engineering guide

lines prior to shaping the piece.

(40) “Leather Preservative” means a leather treatment material applied exclusively to clean, condition or preserve leather.

(41) “Lubricant” means a substance such as oil, petroleum distillates, grease, graphite, silicone, lithium, etc., that is applied to surfaces to reduce friction, heat, or wear when applied between surfaces.

(42) “Manufacturer” means the company, firm or establishment which is listed on the product container or package. If the product container or package lists two companies, firms or establishments, the manufacturer is the party which the product was “manufactured for” or “distributed by”, as noted on the product container or package.

(43) “Marine Spar Varnish” means a coating designed and labeled to be exclusively used as a protective sealant for marine wood products.

(44) “Maskant” means a coating applied directly to a component to protect surfaces during chemical milling, anodizing, aging, bonding, plating, etching, or other chemical operations.

(45) “Metallic Coating” means a topcoat which contains at least 0.5 percent by weight elemental metallic pigment in the formulation, including propellant, and is labeled as “metallic”, or with the name of a specific metallic finish such as “gold”, “silver”, or “bronze”.

(46) “Mold Release” means a coating applied to molds to prevent products from sticking to mold surfaces.

(47) “Multi-Component Kit” means a spray paint system which requires the application of more than one component, (e.g. foundation coat and top coat), where both components are sold together in one package.

(48) “Noncomplying spray paint” means a spray paint which does not comply with the VOC content limits in OAR 340-242-0720.

(49) “Non-Flat Paint Product” means a coating which, when fully dry, registers a specular gloss greater than 15 on an 85E gloss meter or greater than 5 on a 60E gloss meter.

(50) “Photograph Coating” means a coating designed and labeled exclusively to be applied to finished photographs to allow corrective retouching, protection of the image, changes in gloss level, or to cover fingerprints.

(51) “Pleasure Craft” means privately owned boats used for noncommercial purposes.

(52) “Pleasure Craft Finish Primer/Surfacer/Undercoat” means any coating designed and labeled exclusively to be applied before the application of a pleasure craft topcoat for the purpose of corrosion resistance and adhesion of a topcoat, and which promotes a uniform surface by filling in surface imperfections.

(53) “Pleasure Craft Topcoat” means a coating designed and labeled exclusively to be applied to a pleasure craft as a final coat above the water line and above and below the water line when stored out of water. This category does not include clear coatings.

(54) “Portland Air Quality Maintenance Area” or “Portland AQMA” is defined in OAR 340-204-0010. (The Portland AQMA includes portions of Clackamas, Multnomah and Washington Counties.)

(55) “Primer” means a coating labeled as such, which is designed to be applied to a surface to promote a bond between that surface and subsequent coats.

(56) “Propellant” means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or other material from a container.

(57) “Retailer” means any person who sells, supplies, or offers spray paint for sale directly to consumers or commercial applicators.

(58) “Retail Outlet” means any establishment where spray paints are sold, supplied, or offered for sale directly to consumers or commercial applicators.

(59) “Rust Converter” means a product which is designed and labeled exclusively to convert rust to an inert material, and which has a minimum acid content of 0.5 percent by weight, and which has a maximum coating solids content of 0.5 percent by weight.

(60) “Shellac Sealer” means a clear or pigmented coating formulated solely with the resinous secretion of the lac beetle (*Laccifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

(61) “Slip-Resistant Coating” means a coating designed and labeled exclusively as such which is formulated with synthetic grit, and used as a safety coating.

(62) “Spatter Coating/Multicolor Coating” means a coating labeled exclusively as such in which spots, globules, or spatters of contrasting colors appear on or within the surface of a contrasting or similar background.

(63) “Spray Paint” means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application, or for use in specialized equipment for ground traffic/marketing applications.

(64) “Spray Paint Category” means the applicable category which best describes a spray paint listed in this rule.

(65) “Stain” means a coating labeled as such which is designed and labeled to change the color of a surface without concealing the surface from view.

(66) “Topcoat” means a coating applied over any coating, for the purpose of appearance, identification, or protection.

(67) “Vinyl/Fabric/Polycarbonate Coating” means a coating designed and labeled exclusively to coat vinyl, fabric, or polycarbonate substrates.

(68) “Volatile Organic Compound” or “VOC” means those compounds of carbon defined in division 200. For purposes of determining compliance with VOC content limits, VOC shall be measured by an applicable method identified in OAR 340-242-0750.

(69) “VOC Content” means the ratio of the weight of VOC to the total weight of the product contents expressed as follows:

$$\text{VOC Content} = \frac{W_{\text{VOC}}}{W_{\text{Total}}} \times 100$$

Where:

W_{VOC} = the weight of volatile organic compounds; and

W_{Total} = the total weight of the product’s contents.

(70) “Webbing/Veiling Coating” means a spray product designed and labeled exclusively to produce a stranded or

spider-webbed decorative effect.

(71) “Weld-Through Primer” means a coating designed and labeled exclusively to provide a bridging or conducting effect to provide corrosion protection following welding.

(72) “Wood Stain” means a coating which is formulated to change the color of a wood surface without concealing the surface from view.

(73) “Wood Touch-Up/Repair/Restoration Coatings” mean coatings designed and labeled exclusively to provide an exact color or sheen match on finished wood products.

State effective: 10/14/1999; Effective: 3/24/2003; 68 FR 2891

340-242-0720 Spray Paint Standards and Exemptions

(1) Where required by OAR 340-242-0730, spray paint shall not exceed the VOC content limits in **Table F**, as modified by the special conditions and exemptions in sections (2) and (3) of this rule.

Table F

SPRAY PAINT VOC CONTENT LIMITS

Spray Paint Category — VOC Content %-by-Weight

General Coatings:

- Clear Coating — 67
- Flat Paint Products — 60
- Fluorescent Coatings — 75
- Lacquer Coating Products — 80
- Metallic Coating — 80
- Non-Flat Paint Products — 65
- Primer — 60

Specialty Coatings:

- Art Fixative or Sealant — 95
- Auto Body Primer — 80
- Automotive Bumper & Trim Products — 95
- Aviation or Marine Primer — 80
- Aviation Propeller Coating — 84
- Corrosion Resistant Brass, Bronze, or
Copper Coatings — 92

Exact Match Finish:

- Engine Enamel — 80
- Automotive — 88
- Industrial — 88

Floral Spray — 95

Glass Coating — 95

Ground Traffic Marking Coating — 66

High Temperature Coating — 80*

Hobby/Model/Craft Coating:

- Enamel — 80
- Lacquer — 88
- Clear or Metallic — 95

Marine Spar Varnish — 85

Photograph Coating — 95

Pleasure Craft Finish Primer Surfacer or Undercoater — 75

Pleasure Craft Topcoat —80

Shellac Sealer:

Clear —88

Pigmented —75

Slip-Resistant Coating — 80

Spatter/Multicolor Coating — 80

Vinyl/Fabric/Polycarbonate Coating — 95

Webbing/Veil Coating — 90

Weld-Through Primer — 75

Wood Stains — 95

Wood Touch-Up, Repair, or Restoration Coatings — 95

*The VOC limit for High Temperature Coating shall be 88.0% until July 1, 1999, after which the 80.0% limit shall apply.

(2) Special Conditions. The following conditions shall apply to spray paint subject to VOC content limits under section (1) of this rule:

(a) The total weight of VOC contained in a multi-component kit shall not exceed the total weight of VOC that would be allowed in the multi-component kit had each component product met the applicable VOC standards.

(b)(A) Except as provided in paragraph (B) of this subsection, if anywhere on the principal display panel of any spray paint or in any promotion of the product, any representation is made that the product may be used as, or is suitable for use as a spray paint for which a lower VOC standard is specified in section (1) of this rule, then the lower VOC standard shall apply.

(B) If a spray paint is subject to both general coating limit and a specialty coating limit under section (1) of this rule, and the product meets all the criteria of the applicable specialty coating category as specified in OAR 340-242-0710, then the specialty coating limit shall apply instead of the general coating limit.

(3) Exemption. Section (1) of this rule shall not apply to aerosol lubricants, mold releases, automotive underbody coating, electrical coatings, cleaners, belt dressings, anti-static sprays, layout fluids and removers, adhesives, maskants, rust converters, dyes, inks, leather preservatives, or spray paint assembled by adding bulk paint to aerosol containers of propellant and solvent used for minor finish repairs during the original manufacture of products.

State effective: 10/14/1999; Effective: 3/24/2003; 68 FR 2891

340-242-0730 Requirements for Manufacture, Sale, and Use of Spray Paint

(1) Manufacturers. Except as provided in section (6) of this rule, any person who manufactures spray paint after July 1, 1996 which is sold, offered for sale, supplied or distributed, directly or indirectly, to a retail outlet in the Portland AQMA shall:

(a) Manufacture complying spray paint for spray paint marketed in the Portland AQMA;

(b) Clearly display the following information on each product container such that it is readily observable upon hand-held inspection without removing or disassembling any portion of the product container or packaging:

(A) The maximum VOC content of the spray paint, expressed as a percentage by weight;

(B) The spray paint category as defined in OAR 340-242-0710, or an abbreviation of the spray paint category; and

(C) The date on which the product was manufactured, or a code indicating such date; and

(c) Notify direct purchasers of products manufactured for sale within the Portland AQMA upon determining that any noncomplying spray paint has been supplied in violation of this rule.

(2) Distributors. Except as provided in section (6) of this rule, any distributor of spray paint manufactured after July 1, 1996 which is sold, offered for sale, supplied or distributed to a retail outlet within the Portland AQMA shall:

(a) Distribute to the Portland AQMA only spray paints that are labeled as required under subsection (1)(b) of this rule;

(b) Distribute to the Portland AQMA only spray paints labeled with VOC contents that meet the VOC limits specified in OAR 340-242-0720; and

(c) Notify direct purchasers of products distributed for sale within the Portland AQMA upon determining that any noncomplying spray paint has been supplied in violation of this rule.

(3) Retailers.

(a) Except as provided in section (6) of this rule, no retailer shall knowingly sell within the Portland AQMA any noncomplying spray paint manufactured after July 1, 1996.

(b) Upon notification by the Department, a manufacturer, or a distributor that any noncomplying spray paint has been supplied, a retailer shall remove noncomplying spray paint from consumer-accessible areas of retail outlets within the Portland AQMA.

(4) Commercial Applicators. Except as provided in section (6) of this rule, no commercial applicator shall, within the Portland AQMA, knowingly use or contract for the use of any noncomplying spray paint manufactured after July 1, 1996.

(5) Label Alteration. No person shall remove, alter, conceal or deface the information required in subsection (1)(b) of this rule prior to final sale of the product.

(6) Exception. For spray paint which has been granted a compliance extension under OAR 340-242-0770, this rule applies to spray paint manufactured after the date specified in the compliance extension.

State effective: 10/14/1999; Effective: 3/24/2003; 68 FR 2891

340-242-0740 Recordkeeping and Reporting Requirements

(1) Recordkeeping. Manufacturers subject to OAR 340-242-0730 shall maintain the following records for at least 2 years after a product is sold, offered for sale, supplied or distributed by the manufacturer, directly or indirectly, to a retail outlet in the Portland AQMA.

(a) VOC content records of spray paint based methods provided in OAR 340-242-0750;

(b) An explanation of any code indicating the date of manufacture of any spray paint; and

(c) Information used to substantiate an application for a compliance extension OAR 340-242-0770;

(2) Reporting. Following request and within a reasonable period of time, records, specified in section (1) of this rule shall be made available to the Department.

(3) Exemption from disclosure. If a person claims that any writing, as that term is define in ORS 192.410(5), is

confidential or otherwise exempt from disclosure, in whole or in part, the person shall comply with the procedures specified in OAR 340-242-0780.

State effective: 10/14/1999; Effective: 3/24/2003; 68 FR 2891

340-242-0750 Inspection and Testing Requirements

(1) The owner or operator of a facility subject to OAR 340-242-0700 through 340-242-0750 shall, at any reasonable time, make the facility available for inspection by the Department.

(2) Upon request of the Department, any person subject to OAR 340-242-0700 through 340-242-0750 shall furnish samples of spray paint products selected by the Department from available stock for testing by the Department to determine compliance with OAR 340-242-0720.

(3) Except as provided in Section (5) of this rule, testing to determine compliance with OAR 340-242-0720 shall be performed using:

(a) VOC Content. The VOC content shall be determined by:

(A) The procedures set forth in **Bay Area Air Quality Management District Manual of Procedures, Volume III, Laboratory Procedures, Method 35, "Determination of Volatile Organic Compounds, (VOC) in Solvent Based Aerosol Paints,"** as amended **January 19, 1994**, and, for water-containing spray paints, by **ASTM D 5325-92, "Standard Test Method for Determination of Weight Percent Volatile Content of Water-Borne Aerosol Paints,"** **November 15, 1992**; or

(B) Calculation of VOC content from records amounts of constituents used to manufacture the product and the chemical compositions of the individual product constituents.

(b) Exempt Compounds. If a method specified in subsection (a) of this section to measure VOC also measures exempt compounds, the exempt compounds may be excluded from the VOC content if the amount of such compounds is accurately quantified. The Department may require a manufacturer to provide methods and results demonstrating, to the satisfaction of the Department, the amount of exempt compounds in the spray paint of the spray paint's emissions.

(4) Except as provided in Section (5) of this rule, testing to establish the spray paint category as defined in OAR 340-242-0710 shall be performed using:

(a) Metal Content. The metal content of metallic aerosol coating products shall be determined by South Coast Air Quality Management District Test Method 311 (**SCAQMD "Laboratory Methods of Analysis for Enforcement Samples" manual**), **June 1, 1991**, after removal of the propellant following the procedure in **ASTM Method 5325-92, "Standard Test Method for Determination of Weight Percent Volatile Content of Water-Borne Aerosol Paints,"** **November 15, 1992**.

(b) Specular Gloss. Specular gloss of flat and non-flat coatings shall be determined by **ASTM Method D 523-89, March 31, 1989**.

(c) Acid Content. The acid content of rust converters shall be determined by **ASTM Method D-1613-85, "Standard Test Method for Acidity in Volatile Solvents and Chemical Inter-mediate used in Paint, Varnish, Lacquer, and Related Products,"** **May 31, 1985**, after removal of the propellant following the procedure in **ASTM Method 5325-92, "Standard Test Method for Determination of Weight Percent Volatile Content of Water-Borne Aerosol Paints,"** **November 15, 1992**.

(5) Alternative test methods which are shown to accurately determine the VOC content, exempt compounds, metal content, specular gloss, or acid content in a spray paint may also be used if approved in writing by EPA and

the Department.

State effective: 10/14/1999; EPA Effective: 3/24/2003; 68 FR 2891

AREA SOURCE COMMON PROVISIONS

340-242-0760 Applicability

OAR 340-242-0760 through 340-242-0790 apply to OAR 340-242-0600 through OAR 340-242-0750.

State effective: 10/14/1999; EPA Effective: 3/24/2003; 68 FR 2891

340-242-0770 Compliance Extensions

Any manufacturer, as defined in OAR 340-242-0710, who cannot comply with the requirements specified in OAR 340-242-0700 to 340-242-0750 by the applicable compliance date because of conditions specified in section (4) of this rule may apply in writing to the Department for a compliance extension of up to 3 years in renewable 1 year increments.

- (1) A manufacturer shall apply in writing to the Department for any compliance extension under this section. Information claimed by the applicant as confidential or otherwise exempt from disclosure shall be submitted in accordance with OAR 340-242-0780. The application shall include;
 - (a) An explanation of the specific grounds addressing each subsection under section (4) of this rule on which the compliance extension is sought;
 - (b) The requested terms and conditions;
 - (c) The specific method(s) by which compliance with the requested terms and conditions will be achieved;
 - (d) Any interim measures which may be taken during the period of the compliance extension to limit the amount of emissions in excess of the rule limits; and
 - (e) If applicable, any compliance extension, alternate control requirement or variance order granted by another local, state or federal air pollution control agency.
- (2) Within 30 days of receipt of the compliance extension application, the Department shall determine whether an application is complete.
- (3) Within 90 days after an application has been deemed complete, the Department shall determine whether, under what conditions, and to what extent, a compliance extension shall be approved. The applicant and the Department may mutually agree to extend the period for making a determination, and additional supporting documentation may be submitted by the applicant before the determination is reached.
- (4) In considering whether to approve a compliance extension, the Department shall consider the following:
 - (a) Conditions beyond the control of the applicant;
 - (b) Special circumstances which render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause;
 - (c) Strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or
 - (d) No other alternative facility or method of handling is yet available.

(5) Any compliance extension order shall specify terms and conditions, including a date by which final compliance shall be achieved. The final compliance date shall not exceed 3 years after the applicable compliance date. A compliance extension shall be granted in 1 year increments which may be renewed until the final compliance date upon a showing by the manufacturer that any increments of progress and other terms and conditions in the order have been met.

(6) The Department shall notify the applicant in writing of the determination under section (3) of this rule and the terms and conditions established under section (5) of this rule.

(7) Notwithstanding Section (4) of this rule, if, prior to the applicable compliance date, a manufacturer, as defined in OAR 340-242-0710, submits to the Department a variance order granted by the California Air Resources Board (CARB) which is valid as of February 20, 1995, the manufacturer shall be granted a 1 year extension from the applicable compliance date. Such compliance extensions may be revoked by the Department if the Department believes that the manufacturer is not in compliance with the terms and conditions of the CARB variance order.

(8) For any product for which a compliance extension has been approved pursuant to this rule, the manufacturer shall notify the Department in writing within 30 days if the manufacturer learns that information submitted to the Department under this rule has changed in a manner which could modify the basis of the Department's approval.

(9) If the Department believe that a product for which a compliance extension has been granted no longer meets the criteria for a compliance extension specified in this rule, the Department may modify or revoke the extension as necessary to ensure that the product will meet these criteria. The Department shall notify the applicant in writing if a compliance extension is modified or revoked under this section.

State effective: 10/14/1999; EPA Effective: 3/24/2003; 68 FR 2891

340-242-0780 Exemption from Disclosure to the Public

(1) If a person claims that any writing, as that term is defined in ORS 192.410(5), is confidential or otherwise exempt from disclosure, in whole or in part, the person shall comply with the following procedures:

(a) The writing shall be clearly marked with a request for exemption from disclosure. For a multi-page writing, each page shall be so marked.

(b) The person shall state the specific statutory provision under which it claims exemption from disclosure and explain why the writing meets the requirements of that provision.

(c) For writings that contain both exempt and non-exempt material, the proposed exempt material shall be clearly distinguishable from the non-exempt material. If possible, the exempt material shall be arranged so that it is placed on separate pages from the non-exempt material.

(2) For a writing to be considered exempt from disclosure as a "trade secret," it shall meet all of the following criteria:

(a) The information shall not be patented;

(b) It shall be known only to a limited number of individuals within a commercial concern who have made efforts to maintain the secrecy of the information;

(c) It shall be information which derives actual or potential economic value from not being disclosed to other persons; and

(d) It shall give its users the chance to obtain a business advantage over competitors not having the information.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-242-0790 Future Review

Within a reasonable period of time following adoption by the United States Environmental Protection Agency of regulations to reduce VOC emissions from one or more products subject to OAR 340-242-0700 through OAR 340-242-0750, the Department shall provide the following information to the Environmental Quality Commission:

- (1) A comparison of the federal regulation with OAR 340-242-0700 through 340-242-0750;
- (2) An estimate of the change in emissions which would occur from repeal of provisions in OAR 340-242-0700 through 340-242-0750 applicable to such product or products;
- (3) An assessment of the effect of eliminating or modifying the provisions of OAR 340-242-0700 through OAR 340-242-0750 on the State Implementation Plan adopted under OAR 340-200-0040, including any need for substitute measures; and
- (4) A recommendation regarding amendment to eliminate such provisions and, if applicable, a schedule for amendment.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

DIVISION 250

GENERAL CONFORMITY

340-250-0010 Purpose

(1) The purpose of these rules is to implement Section 176(c) of the Clean Air Act (Act), (Public Law 88-206 as last amended by Public Law 101-549) and regulations under **40 CFR Part 51 subpart W (July 1, 1994)**, with respect to the conformity of general federal actions to the applicable implementation plan. Under those authorities no department, agency or instrumentality of the federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan. These rules set forth policy, criteria, and procedures for demonstrating and assuring conformity of such actions to the applicable implementation plan.

(2) Under Section 176(c) of the Act and **40 CFR Part 51 subpart W (July 1, 1994)**, a federal agency must make a determination that a federal action conforms to the applicable SIP in accordance with this division before the action is taken.

(3) Section (2) of this rule does not include federal actions where either:

(a) A National Environmental Policy Act (NEPA) analysis was completed as evidenced by a final environmental assessment (EA), environmental impact statement (EIS), or finding of no significant impact (FONSI) that was prepared prior to January 31, 1994; or

(b) the following has been completed:

(A) Prior to January 31, 1994, an EA was commenced or a contract was awarded to develop the specific environmental analysis;

(B) Sufficient environmental analysis is completed by March 15, 1994 so that the federal agency may determine that the federal action is in conformity with the specific requirements and the purposes of the applicable SIP pursuant to the agency's affirmative obligation under Section 176(c) of the Act; and

(C) A written determination of conformity under Section 176(c) of the Act has been made by the federal agency responsible for the federal action by March 15, 1994.

(4) Notwithstanding any provision of this division, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the NEPA, or the Act.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-250-0020 Applicability

(1) Conformity determinations for federal actions in a nonattainment area or maintenance area related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53) must meet the procedures and criteria for transportation conformity as set forth in OAR 340 division 252, in lieu of the procedures set forth in this division.

(2) For federal actions in a nonattainment area or maintenance area not covered by section (1) of this rule, a conformity determination is required for each pollutant where the total of direct and indirect emissions caused by a federal action would equal or exceed any of the rates in sections (3)(a) and (b) of this rule.

(3) The following emission rates apply to federal actions pursuant to section (2) of this rule:

(a) For nonattainment areas: **Pollutant -- Tons per year:**

(A) Ozone (VOCs or NO_x):

(i) Serious NAAs -- 50;

(ii) Severe NAAs -- 25;

(iii) Extreme NAAs -- 10;

(iv) Other ozone NAAs (Outside an ozone transport region) -- 100;

(v) Marginal & moderate NAAs (Inside an ozone transport region):

(I) VOC -- 50;

(II) NO_x -- 100.

(B) Carbon Monoxide: All NAAs -- 100;

(C) SO₂ or NO₂: All NAAs -- 100;

(D) PM₁₀:

(i) Moderate NAAs -- 100;

(ii) Serious NAAs -- 70;

(iii) Pb: All NAAs -- 25.

(b) For maintenance areas: **Pollutant -- Tons per Year:**

(A) Ozone (NO_x), SO₂ or NO₂: All maintenance areas -- 100;

(B) Ozone (VOCs): Maintenance areas:

(i) Inside ozone transport region -- 50;

(ii) Outside ozone transport region -- 100.

(C) Carbon Monoxide: All maintenance areas -- 100;

(D) PM₁₀: All maintenance areas -- 100;

(E) Pb: All maintenance areas -- 25.

(4) The requirements of this division shall not apply to:

(a) Actions where the total of direct and indirect emissions are below the emissions levels specified in subsection

(b) of this section.

(b) The following actions which would result in no emissions increase or an increase in emissions that is clearly de minimis:

(A) Judicial and legislative proceedings.

(B) Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted.

(C) Rulemaking and policy development and issuance.

(D) Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities.

(E) Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law enforcement personnel.

(F) Administrative actions such as personnel actions, organizational changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties and fees.

(G) The routine, recurring transportation of material and personnel.

(H) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups or for repair or overhaul.

(I) Maintenance dredging and debris disposal where no new depths are required, applicable permits are required, and disposal will be at an approved site.

(J) Actions, such as the following, with respect to existing structures, properties, facilities and lands where future activities conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands; for example, relocation of personnel, disposition of federally owned existing structures, properties, facilities and lands, rent subsidies, operation and maintenance cost subsidies, the exercise of receivership and conservatorship authority, assistance in purchasing structures, and the production of coins and currency.

(K) The granting of leases, licenses such as for exports and trade, permits and easements where activities conducted will be similar in scope and operation to activities currently being conducted.

(L) Planning, studies, and provision of technical assistance.

(M) Routine operation of facilities, mobile assets and equipment.

(N) Transfer of ownership, interests, and titles in land, facilities and real and personal properties, regardless of the form or method of the transfer.

(O) The designation of empowerment zones, enterprise communities, or viticultural areas.

(P) Actions by any of the federal banking agencies of the Federal Reserve Banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking

organizations or to any department, agency or instrumentality of the United States.

(Q) Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank to effect monetary or exchange rate policy.

(R) Actions that implement a foreign affairs function of the United States.

(S) Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.

(T) Transfers of real property, including land, facilities, and related personal property from a federal entity to another federal entity and assignments of real property, including land, facilities, and related personal property from a federal entity to another federal entity for subsequent deeding to eligible applicants.

(U) Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States.

(c) The following actions where the emissions are not reasonably foreseeable:

(A) Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level.

(B) Electric power marketing activities that involve the acquisition, sale and transmission of electric energy.

(d) Actions in nonattainment areas or maintenance areas which implement a decision to conduct or carry out a conforming program such as prescribed burning actions which are consistent with a conforming land management plan.

(5) Notwithstanding the other requirements of this division, a conformity determination is not required for the following federal actions (or portion thereof):

(a) The portion of an action that includes major new or modified stationary sources that require a permit under the new source review (NSR) program (Section 173 of the Act) or the prevention of significant deterioration (PSD) program (Title I, part C of the Act).

(b) Actions in response to emergencies or natural disasters such as hurricanes, earthquakes, etc., which are commenced on the order of hours or days after the emergency or disaster and, if applicable, which meet the requirements of section (6) of this rule.

(c) Research, investigations, studies, demonstrations, or training, other than those exempted under section (4)(b) of this rule, where no environmental detriment is incurred or the particular action furthers air quality research, as determined by the state agency primarily responsible for the applicable SIP.

(d) Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g. hush houses for aircraft engines and scrubbers for air emissions).

(e) Direct emissions from remedial and removal actions carried out under the CERCLA and associated regulations

to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other regulation under the provisions of CERCLA and applicable regulations issued under CERCLA.

(6) Federal actions which are part of a continuing response to an emergency or disaster under section (5)(b) of this rule and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under section (5)(b) of this rule are exempt from the requirements of this division only if:

(a) The federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional 6 months, it is impractical to prepare the conformity analyses which would otherwise be required and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests and foreign policy commitments; or

(b) For actions which are to be taken after those actions covered by subsection (a) of this section, the federal agency makes a new determination as provided in subsection (a) of this section.

(7) Notwithstanding other requirements of this division, actions specified by individual federal agencies that have met the criteria set forth in section (8) of this rule and the procedures set forth in section (9) of this rule are presumed to conform, except as provided in section (11) of this rule.

(8) The federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in either subsection (a) or (b) of this section:

(a) The federal agency must clearly demonstrate using methods consistent with this rule that the total of direct and indirect emissions from the type of activities which would be presumed to conform would not:

(A) Cause or contribute to any new violation of any standard in any area;

(B) Interfere with provisions in the applicable SIP for maintenance of any standard;

(C) Increase the frequency or severity of any existing violation of any standard in any area;

(D) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(i) A demonstration of reasonable further progress;

(ii) A demonstration of attainment; or

(iii) A maintenance plan; or

(b) The federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emissions rates for a conformity determination that are established in section (3) of this rule, based, for example, on similar actions taken over recent years.

(9) In addition to meeting the criteria for establishing exemptions set forth in section (8) of this rule, the following procedures must also be complied with to presume that activities will conform:

(a) The federal agency must identify through publication in the Federal Register its list of proposed activities that are presumed to conform and the basis for the presumptions;

(b) The federal agency must notify the appropriate EPA Regional Office(s), state and local air quality agencies

and, where applicable, the agency designated under section 174 of the Act and the MPO and provide at least 30 days for the public to comment on the list of proposed activities presumed to conform;

(c) The federal agency must document its response to all the comments received and make the comments, response, and final list of activities available to the public upon request; and

(d) The federal agency must publish the final list of such activities in the Federal Register.

(10) Notwithstanding the other requirements of this division, when the total of direct and indirect emissions of any pollutant from a federal action does not equal or exceed the rates specified in section (3) of this rule, but represents 10 percent or more of a non-attainment or maintenance area's total emissions of that pollutant, the action is defined as a regionally significant action and the requirements of 340-250-0010, and OAR 340-250-0050 through 340-250-0100 shall apply for the federal action.

(11) Where an action otherwise presumed to conform under section (7) of this rule is a regionally significant action or does not in fact meet one of the criteria in section (8)(a) of this rule, that action shall not be presumed to conform and the requirements of OAR 340-250-0020 and 340-250-0050 through 340-250-0100 shall apply for the federal action.

(12) The provisions of this division shall apply in all non-attainment/maintenance areas.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-250-0030 Definitions

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

(1) "Affected federal land manager" means the federal agency or the federal official charged with direct responsibility for management of an area designated as Class I under the Act that is located within 100 km of the proposed federal action.

(2) "Applicable implementation plan" or "applicable SIP" means the portion (or portions) of the applicable SIP or most recent revision thereof, which has been approved under Section 110 of the Act, or promulgated under Section 110(c) of the Act (Federal implementation plan), or promulgated under Section 301(d) of the Act which implements the relevant requirements of the Act.

(3) "Areawide air quality modeling analysis" means an assessment on a scale that includes the entire nonattainment area or maintenance area which uses an air quality dispersion model to determine the effects of emissions on air quality.

(4) "Cause or contribute to any new violation of any standard in any area" means a federal action that:

(a) Causes a new violation of a NAAQS at a location in a nonattainment area or maintenance area which would otherwise not be in violation of the standard during the future period in question if the federal action were not taken; or

(b) Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment area or maintenance area in a manner that would increase the frequency or severity of the new violation.

(5) "Caused by", as used in the terms "direct emissions" and "indirect emissions," means emissions that would not otherwise occur in the absence of the federal action.

(6) "Criteria pollutant" means any pollutant for which there is established a NAAQS at **40 CFR part 50 (July 1, 1994)**.

(7) "Direct emissions" means those emissions of a criteria pollutant or precursors of a criteria pollutant that are caused or initiated by the federal action and occur at the same time and place as the action.

(8) "Emergency" means a situation where extremely quick action on the part of the Federal agencies involved is needed and where the timing of such federal activities makes it impractical to meet the requirements of this division, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts, and military mobilizations.

(9) "Emissions budgets" means those portions of the applicable SIP's projected emissions inventories that describe levels of emissions (mobile, stationary, area, etc.) that provide for meeting reasonable further progress milestones, attainment, or maintenance for any criteria pollutant or precursors of a criteria pollutant.

(10) "Emissions offsets", for purposes of OAR 340-250-0080, means emissions reductions which are quantifiable, consistent with OAR 340 division 268 and OAR 340-224-0090, and the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other SIP provisions, enforceable at both the state and federal levels, and permanent within the timeframe specified by the program.

(11) "Emissions that a federal agency has a continuing program responsibility for" means emissions that are specifically caused by an agency carrying out its authorities, and does not include emissions that occur due to subsequent activities, unless such activities are required by the federal agency. Where an agency, in performing its normal program responsibilities, takes actions itself or imposes conditions that result in air pollutant emissions by a nonfederal entity taking subsequent actions, such emissions are covered by the meaning of a continuing program responsibility.

(12) "EPA" means the United States Environmental Protection Agency.

(13) "Federal action" means any activity engaged in by a department, agency, or instrumentality of the federal government, or any activity that a department, agency or instrumentality of the federal government supports in any way, provides financial assistance for licenses, permits, or approves under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). Where the federal action is a permit, license, or other approval for some aspect of a nonfederal undertaking, the relevant activity is the part, portion, or phase of the nonfederal undertaking that requires the federal permit, license, or approval.

(14) "Federal agency" means a federal department, agency, or instrumentality of the federal government.

(15) "Increase the frequency or severity of any existing violation of any standard in any area" means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed or would otherwise exist during the future period in question, if the project were not implemented.

(16) "Indirect emissions" means those emissions of a criteria pollutant or precursors of a criteria pollutant that:

(a) Are caused by the federal action, but may occur later in time or may be farther removed in distance from the action itself but are still reasonably foreseeable; and

(b) The federal agency can practicably control and will maintain control over due to a continuing program responsibility of the federal agency.

(17) "Local air quality modeling analysis" means an assessment of localized impacts on a scale smaller than the

entire nonattainment area or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, which uses an air quality dispersion model to determine the effects of emissions on air quality.

(18) "Maintenance area" means an area with a maintenance plan approved under Section 175A of the Act.

(19) "Maintenance plan" means a revision to the applicable SIP, meeting the requirements of Section 175A of the Act.

(20) "Metropolitan Planning Organization" or "MPO" means that organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607.

(21) "Milestone" has the meaning given in Sections 182(g)(1) and 189(c)(1) of the Act.

(22) "National ambient air quality standards" or "NAAQS" means those standards established pursuant to Section 109 of the Act and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone, particulate matter (PM₁₀), and sulfur dioxide (SO₂).

(23) "NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

(24) "Nonattainment area" means an area designated as nonattainment under Section 107 of the Act and described in **40 CFR part 81 (July 1, 1994)**.

(25) "Precursors of a criteria pollutant" means:

(a) For ozone, nitrogen oxides (NO_x), unless an area is exempted from NO_x requirements under Section 182(f) of the Act, and volatile organic compounds (VOC); and

(b) For PM₁₀, those pollutants described in the PM₁₀ nonattainment area applicable SIP as significant contributors to the PM₁₀ levels.

(26) "Reasonably foreseeable emissions" means projected future indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known and the emissions are quantifiable, as described and documented by the federal agency based on its own information and after reviewing any information presented to the federal agency.

(27) "Regional water or wastewater projects" include construction, operation, and maintenance of water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment area or maintenance area.

(28) "Regionally significant action" means a federal action for which the direct emissions and indirect emissions of any pollutant represent 10 percent or more of a nonattainment area's or maintenance area's emissions inventory for that pollutant.

(29) "Total of direct and indirect emissions" means the sum of direct emissions and indirect emissions increases and decreases caused by the federal action; i.e., the "net" emissions considering all direct emissions and indirect emissions. The portion of emissions which are exempt or presumed to conform under OAR 340-250-0020(4), (5), (6) or (7) are not included in the "total of direct and indirect emissions."

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

Any federal department, agency, or instrumentality of the federal government taking an action subject to OAR 340-250-0020(3) must make its own conformity determination consistent with the requirements of this division. In making its conformity determination, a federal agency must consider comments from any interested parties. Where multiple federal agencies have jurisdiction for various aspects of a project, a federal agency may choose to adopt the analysis of another federal agency or develop its own analysis in order to make its conformity determination.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-250-0050 Reporting Requirements

(1) A federal agency making a conformity determination under OAR 340-250-0080 must provide to the appropriate EPA Regional Office(s), state and local air quality agencies and, where applicable, affected federal land managers, the agency designated under Section 174 of the Act and the MPO a 30 day notice which describes the proposed action and the federal agency's draft conformity determination on the action.

(2) A federal agency must notify the appropriate EPA Regional Office(s), state and local air quality agencies and, where applicable, affected land managers, the agency designated under Section 174 of the Clean Air Act and the MPO within 30 days after making a final conformity determination under OAR 340-250-0080.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-250-0060 Public Participation

(1) Upon request by any person regarding a specific federal action, a federal agency must make available for review its draft conformity determination under OAR 340-250-0080 with supporting material which describe the analytical methods, assumptions and conclusions relied upon in making the applicability analysis and draft conformity determination.

(2) A federal agency must make public its draft conformity determination under 340-250-0080 by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.

(3) A federal agency must document its response to all the comments received on its draft conformity determination under OAR 340-250-0080 and make the comments and responses available, upon request by any person regarding a specific federal action, within 30 days of the final conformity determination.

(4) A federal agency must make public its final conformity determination under 340-250-0080 for a federal action by placing notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-250-0070 Frequency of Conformity Determinations

(1) The conformity status of a federal action automatically lapses 5 years from the date a final conformity determination is reported under OAR 340-250-0050, unless the federal action has been completed or a continuous program has been commenced to implement that federal action within a reasonable time.

(2) Ongoing federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as the emissions associated with such activities are within the scope of the final conformity determination reported under OAR 340-250-0050.

(3) If, after the conformity determination is made, the federal action is changed so that there is an increase in the total of direct and indirect emissions above the levels in OAR 340-250-0020(4), a new conformity determination

is required.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-250-0080 Criteria for Determining Conformity of General Federal Actions

(1) An action required under OAR 340-250-0020 to have a conformity determination for a specific pollutant, will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in OAR 340-250-0020(3), or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of section (3) of this rule, and meets any of the following requirements:

(a) For any criteria pollutant, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration;

(b) For ozone or nitrogen dioxide, the total of direct and indirect emissions from the action are fully offset within the same nonattainment area or maintenance area through a revision to the applicable SIP or a similarly enforceable measure that effects emission reductions so that there is no net increase in emissions of that pollutant;

(c) For any criteria pollutant, except ozone and nitrogen dioxide, the total of direct and indirect emissions from the action meet the requirements:

(A) Specified in section (2) of this rule, based on areawide air quality modeling analysis and local air quality modeling analysis; or

(B) Meet the requirements of subsection (e) of this section and, for local air quality modeling analysis, the requirements of section (2) of this rule.

(d) For CO or PM₁₀:

(A) Where the Department or local air quality agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in section (2) of this rule, based on local air quality modeling analysis; or

(B) Where the Department or local air quality agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in section (2) of this rule, based on areawide modeling, or meet the requirements of subsection (e) of this section.

(e) For ozone or nitrogen dioxide, and for purposes of subsections (c)(B) and (d)(B) of this section, each portion of the action or the action as a whole meets any of the following requirements:

(A) Where EPA has approved a revision to an area's attainment or maintenance demonstration after 1990 and the state makes a determination as provided in subparagraph (i) of this paragraph or where the state makes a commitment as provided in subparagraph (ii) of this paragraph:

(i) The total of direct and indirect emissions from the action, or portion thereof, is determined and documented by the state agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area or maintenance area, would not exceed the emissions budgets specified in the applicable SIP;

(ii) The total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the state agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area or maintenance area, would not exceed the emissions budget

specified in the applicable SIP and the State Governor or the Governor's designee for SIP actions makes a written commitment to EPA which includes the following:

- (I) A specific schedule for adoption and submittal of a revision to the applicable SIP which would achieve the needed emission reductions prior to the time emissions from the federal action would occur;
 - (II) Identification of specific measures for incorporation into the applicable SIP which would result in a level of emissions which, together with all other emissions in the nonattainment area or maintenance area, would not exceed any emissions budget specified in the applicable SIP;
 - (III) A demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the federal action, and that local authority to implement additional requirements has been fully pursued;
 - (IV) A determination that the responsible federal agencies have required all reasonable mitigation measures associated with their action; and
 - (V) Written documentation including all air quality analyses supporting the conformity determination.
- (iii) Where a federal agency made a conformity determination based on a state commitment under subparagraph (ii) of this paragraph such a state commitment is automatically deemed a call for a SIP revision by EPA under Section 110(k)(5) of the Act, effective on the date of the federal conformity determination and requiring response within 18 months or any shorter time within which the state commits to revise the applicable SIP.
- (B) The action, or portion thereof, as determined by the MPO, is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP under **40 CFR part 51, subpart T (July 1, 1994)** or **40 CFR part 93, subpart A (July 1, 1994)**, and OAR 340 division 252.
- (C) The action, or portion thereof, fully offsets its emissions within the same nonattainment area or maintenance area through a revision to the applicable SIP or an equally enforceable measure that effects emission reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;
- (D) Where EPA has not approved a revision to the relevant SIP attainment or maintenance demonstration since 1990, the total direct and indirect emissions from the action for the future years (described in OAR 340-250-0090(4)) do not increase emissions with respect to the baseline emissions:
- (i) The baseline emissions reflect the historical activity levels that occurred in the geographic area affected by the proposed federal action during:
 - (I) Calendar year 1990;
 - (II) The calendar year that is the basis for the classification, or, where the classification is based on multiple years, the most representative year, if a classification is promulgated in **40 CFR part 81 (July 1, 1994)**; or
 - (III) The year of the baseline inventory in the PM₁₀ applicable SIP.
 - (ii) The baseline emissions are the total of direct and indirect emissions calculated for the future years (described in OAR 340-250-0090(4)) using the historic activity levels (described in subparagraph (i) of this paragraph) and appropriate emission factors for the future years; or

(E) Where the action involves regional water or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

(2) The areawide air quality modeling analysis or local air quality modeling analysis must:

(a) Meet the requirements in OAR 340-250-0090; and

(b) Show that the action does not:

(A) Cause or contribute to any new violation of any standard in any area;

(B) Increase the frequency or severity of any existing violation of any standard in any area.

(3) Notwithstanding any other requirements of this rule, an action subject to this division may not be determined to conform to the applicable SIP unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements, and such action is otherwise in compliance with all relevant requirements of the applicable SIP.

(4) Any analyses required under this rule must be completed, and any mitigation requirements necessary for a finding of conformity must be identified in compliance with OAR 340-250-0100, before the determination of conformity is made.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-250-0090 Procedures for Conformity Determinations of General Federal Actions

(1) The analyses required under OAR 340-250-0080 and 340-250-0090 must be based on the latest planning assumptions.

(a) All planning assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently approved by the MPO, or other agency authorized to make such estimates, where available.

(b) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or other agency authorized to make such estimates for the urban area.

(2) The analyses required under OAR 340-250-0080 and 340-250-0090 must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate and written approval of the EPA Regional Administrator is obtained for any modification of substitution, they may be modified or another technique substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program.

(a) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in that state must be used for the conformity analysis as specified in subsections (A) and (B) of this section:

(A) The EPA must publish in the Federal Register a notice of availability of any new motor vehicle emissions model; and

(B) A grace period of three months shall apply during which the motor vehicle emissions model previously specified by EPA as the most current version may be used. Conformity analyses for which the analysis was begun

during the grace period or no more than 3 years before the federal Register notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA.

(b) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "**Compilation of Air Pollutant Emission Factors (AP-42)**" must be used for conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

(3) The air quality modeling analyses required under OAR 340-250-0080 and 340-250-0090 must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "**Guideline on Air Quality Models (Revised)**"(1986), including supplements (EPA publication no. 450/2-78-027R), unless:

(a) The guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program; and

(b) Written approval of the EPA Regional Administrator is obtained for any modification or substitution.

(4) The analyses required under OAR 340-250-0080 and 340-250-0090 must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

(a) The Act mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;

(b) The year during which the total of direct and indirect emissions from the action for each pollutant is expected to be the greatest on an annual basis; and

(c) Any year for which the applicable SIP specifies an emissions budget.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-250-0100 Mitigation of Air Quality Impacts

(1) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.

(2) Prior to determining that a federal action is in conformity, the federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to implement any mitigation measures which are identified as conditions for making conformity determinations. Such written comments shall describe the mitigation measures and the nature of the commitments in a manner consistent with section (1) of this rule.

(3) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

(4) In instances where the federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the federal agency must be conditioned on the other entity meeting the mitigation measures set forth in the conformity determination, as provided in section (1) of this rule.

(5) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation

measures is subject to the reporting requirements of OAR 340-250-0050 and the public participation requirements of OAR 340-250-0060.

(6) Written commitments to mitigation measures must be obtained prior to a positive conformity determination and all such commitments must be fulfilled.

(7) After the Department revises its SIP to adopt its general conformity rules and EPA approves that SIP revision, any agreements, necessary for a conformity determination will be both state and federally enforceable. Enforceability through the applicable SIP will apply to all persons who agree to mitigate direct emissions and indirect emissions associated with a federal action for a conformity determination.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

DIVISION 252

TRANSPORTATION CONFORMITY

340-252-0010 Purpose

The purpose of this division is to implement section 176(c) of the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], and the related requirements of **23 U.S.C. 109(j)**, with respect to the conformity of transportation plans, programs, and projects which are developed, funded, or approved by the United States Department of Transportation (DOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). This division sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to section 110 and Part D of the CAA.

State effective: 10/14/1999; EPA effective: 3/24/2003; 68 FR 2891

340-252-0030 Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-204-0010, the definition in this rule applies to this division. Terms used but not defined in this rule shall have the meaning given them by the CAA, Titles 23 and 49 U.S.C., other Environmental Protection Agency regulations, or other DOT regulations, in that order of priority.

(1) "Air pollution control agency" has the meaning given that term in section 176(c)(7)(E) of the FCAA.

(2) "Consult" or "consultation" means that the party or parties responsible for consultation as established in OAR 340-252-0060 shall provide all appropriate information necessary to making a conformity determination and, prior to making a conformity determination, except with respect to a transportation plan or TIP revision which merely adds or deletes exempt projects, consider the views of such parties and provide a timely, written response to those views. Such views and written responses shall be included in the record of decision or action.

(3) "DEQ" means the Department of Environmental Quality.

(4) "ODOT" means the Oregon Department of Transportation.

(5) "Policy level official" means elected officials, and management and senior staff level employees.

(6) "Regional air authority" means a regional air authority established pursuant to ORS 468A.105.

(7) "Scope" means "design scope" as defined in 40 CFR 93.101 when the term follows "design concept and..."
State effective: 3/5/2010; EPA effective: 11/5/2012; 77 FR 60627

340-252-0060 Consultation

(1) General:

(a) This section provides procedures for interagency consultation (Federal, State, and local) and resolution of conflicts. Consultation shall be undertaken by MPOs, the Oregon Department of Transportation, affected local jurisdictions, and United States Department of Transportation before making conformity determinations and in developing regional transportation plans and transportation improvement programs. Consultation shall be undertaken by a lead planning agency, the Department of Environmental Quality, the Lane Regional Air Protection Agency (for actions in Lane County which are subject to this division), or any other regional air authority, and United States Environmental Protection Agency in developing applicable implementation plans.

(b) The lead planning agency, the Department of Environmental Quality, the Lane Regional Air Protection Agency for Lane County, or any other regional air authority, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development, amendment or revision (except administrative amendments or revisions) of an applicable implementation plan including, the motor vehicle emissions budget. The MPO, Oregon Department of Transportation, or any other party responsible for making conformity determinations pursuant to this rule, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development of the transportation plan, the TIP, and any determinations of conformity under this rule. The project sponsor shall be responsible for assuring the conformity of FHWA/FTA projects and regionally significant projects approved or adopted by a recipient of funds under title 23.

(c) In addition to the lead agencies identified in subsection (b), other agencies entitled to participate in any interagency consultation process under OAR 340-252-0060 include the Oregon Department of Transportation, both headquarters and each affected regional or district office, each affected MPO, the Federal Highway Administration regional office in Portland and State division office in Salem, the Federal Transit Administration regional office, the Department of Environmental Quality, both headquarters and each affected regional office, any affected regional air authority, the United States Environmental Protection Agency, both headquarters and each affected regional or district office, and any other organization within the State responsible under State law for developing, submitting or implementing transportation-related provisions of an implementation plan, any local transit agency, and any city or county transportation or air quality agency.

(d) Specific roles and responsibilities of various participants in the interagency consultation process shall be as follows:

(A) The lead planning agency, the Department of Environmental Quality, the Lane Regional Air Protection Agency, or any other regional air authority, shall be responsible for developing:

(i) Emissions inventories;

(ii) Emissions budgets;

(iii) Attainment and maintenance demonstrations;

(iv) Control strategy implementation plan revisions; and

(v) Updated motor vehicle emissions factors.

(B) Unless otherwise agreed to in a Memorandum of Understanding between the affected jurisdictions and the

Department of Environmental Quality, the Department of Environmental Quality shall be responsible for developing the transportation control measures to be included in SIPs in nonattainment or maintenance areas, except Lane County.

(C) The Lane Regional Air Protection Agency shall be responsible for developing transportation control measures for PM10 in Lane County.

(D) The MPO shall be responsible for:

(i) Developing transportation plans and TIPs, and making corresponding conformity determinations;

(ii) Making conformity determinations for the entire nonattainment or maintenance area including areas beyond the boundaries of the MPO where no agreement is in effect as required by 23 CFR § 450.310(f);

(iii) Monitoring regionally significant projects;

(iv) Developing and evaluating TCMs in nonattainment and/or maintenance areas;

(v) Providing technical and policy input on emissions budgets;

(vi) Performing transportation modeling, regional emissions analyses and documenting timely implementation of TCMs as required for determining conformity;

(vii) Distributing draft and final project environmental documents which have been prepared by the MPO to other agencies.

(E) The Oregon Department of Transportation shall be responsible for:

(i) Providing technical input on proposed revisions to motor vehicle emissions factors;

(ii) Distributing draft and final project environmental documents prepared by ODOT to other agencies;

(iii) Convening air quality technical review meetings on specific projects when requested by other agencies or, as needed;

(iv) Convening interagency consultation meetings required for purposes of making conformity determinations in non-metropolitan nonattainment or maintenance areas;

(v) Making conformity determinations in non-metropolitan nonattainment or maintenance area.

(F) The project sponsor shall be responsible for:

(i) Assuring project level conformity including, where required by this rule, localized air quality analysis;

(ii) Distributing draft and final project environmental documents prepared by the project sponsor to other agencies.

(G) The Federal Highway Administration and Federal Transit Administration shall be responsible for assuring timely action on final findings of conformity, after consultation with other agencies as provided in this section and 40 CFR § 93.105.

(H) United State Environmental Protection Agency shall be responsible for:

(i) Reviewing and approving updated motor vehicle emissions factors; and

(ii) Providing guidance on conformity criteria and procedures to agencies in interagency consultation.

(I) Any agency, by mutual agreement with another agency, may take on a role or responsibility assigned to that other agency under this rule.

(J) In metropolitan areas, any state or local transportation agency, or transit agency shall disclose regionally significant projects to the MPO standing committee established under OAR 340-252-0060(2)(b) in a timely manner.

(i) Such disclosure shall be made not later than the first occasion on which any of the following actions is sought: adoption or amendment of a local jurisdiction's transportation system plan to include a proposed project, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract for final design or construction of the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with final design, permitting or construction of the project, or any approval needed for any facility that is dependent on the completion of the regionally significant project.

(ii) To help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose to the MPO annually on or before July 1.

(iii) In the case of any regionally significant project that has not been disclosed to the MPO and other interested agencies participating in the consultation process in a timely manner, such regionally significant project shall be deemed not to be included in the regional emissions analysis supporting the currently conforming TIP's conformity determination and not to be consistent with the motor vehicle emissions budget in the applicable implementation plan, for the purposes of 40 CFR §93.121.

(K) In non-metropolitan areas, any state or local transportation agency, or transit agency shall disclose regionally significant projects to Oregon Department of Transportation in a timely manner.

(i) Such disclosure shall be made no later than the first occasion on which any of the following actions is sought: adoption or amendment of a local jurisdiction's transportation system plan to include a proposed project, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract for final design or construction of the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with final design, permitting or construction of the project, or any approval needed for any facility that is dependent on the completion of the regionally significant project.

(ii) To help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose to Oregon Department of Transportation as requested. Requests for disclosure shall be made in writing to any affected state or local transportation or transit agency.

(2) Interagency consultation: specific processes.

(a) State Implementation Plan development.

(A) It shall be the affirmative responsibility of the Department of Environmental Quality, the Lane Regional Air Protection Agency, or any other regional air authority with the responsibility for preparing or revising a State Implementation Plan, except for administrative amendments or revisions, to initiate the consultation process by notifying other participants and convening a working group made up of representatives of each affected agency in the consultation process including representatives of the public, as appropriate. Such working group shall be chaired by a representative of the convening agency, unless the group by consensus selects another chair. The working group shall make decisions by majority vote. Such working group shall begin consultation meetings early in the process of decision on the final SIP, and shall review drafts of the final SIP, the emissions budget, and major supporting documents, or appoint the representatives or agencies that will review such drafts. Such working

group shall be made up of policy level officials, and shall be assisted by such technical committees or technical engineering, planning, public works, air quality, and administrative staff from the member agencies as the working group deems appropriate. The chair, or his/her designee, shall set the agenda for meetings and assure that all relevant documents and information are supplied to all participants in the consultation process in a timely manner.

(B) Regular consultation on development or amendment of an implementation plan shall include meetings of the working group at regularly scheduled intervals, no less frequently than quarterly. In addition, technical meetings shall be convened as necessary.

(C) Each lead agency with the responsibility for preparing the SIP subject to the interagency consultation process, shall confer through the working group process with all other agencies identified under subsection (1)(c) of this rule with an interest in the document to be developed, provide all appropriate information to those agencies needed for meaningful input, and, consider the views of each such agency and respond to substantive comments in a timely, substantive written manner prior to making a recommendation to the Environmental Quality Commission for a final decision on such document. Such views and written response shall be made part of the record of any decision or action.

(D) The working group may appoint subcommittees to address specific issues pertaining to SIP development. Any recommendations of a subcommittee shall be considered by the working group.

(E) Meetings of the working group shall be open to the public. The agency with the responsibility of preparing the SIP shall provide timely written notification of working group meetings to those members of the public who have requested such notification. In addition, reasonable efforts shall be made to identify and provide timely written notification to interested parties.

(b) Metropolitan Areas. There shall be a standing committee for purposes of consultation required under this rule by an MPO. The standing committee shall advise the MPO. The committee shall include representatives from state and regional air quality planning agencies and State and local transportation and transit agencies. The standing committee shall consult with the United States Environmental Protection Agency and the United States Department of Transportation. If not designated by committee bylaws, the standing committee shall select its chair by majority vote.

(A) For MPOs designated prior to the effective date of this rule, the following standing committees are designated for purposes of interagency consultation required by this rule:

(i) Lane Council of Governments: Transportation Planning Committee;

(ii) Salem-Keizer Area Transportation Study: Technical Advisory Committee;

(iii) Metro: Transportation Policy Alternatives Committee;

(iv) Rogue Valley Council of Governments: Technical Advisory Committee.

(B) Any MPO designated an air quality nonattainment or maintenance area subsequent to the effective date of this rule shall establish a standing committee to meet the requirements of this rule.

(C) The standing committee shall hold meetings at least quarterly. The standing committee shall make decisions by majority vote.

(D) The standing committee shall be responsible for consultation on:

(i) Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis, in addition to those functionally classified as principal

- arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel;
- (ii) Determining whether a project's design concept and scope have changed significantly since the plan and TIP conformity determination;
- (iii) Evaluating whether projects otherwise exempted from meeting the requirements of this rule should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason;
- (iv) Making a determination, as required by 40 CFR § 93.113 whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs; this consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;
- (v) Identifying, as required by 40 CFR § 93.123, projects located at sites in PM10 or PM2.5 nonattainment or maintenance areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM10 or PM2.5 hot-spot analysis;
- (vi) Forecasting vehicle miles traveled, and any amendments thereto;
- (vii) Making a determination, as required by 40 CFR § 93.121, whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, and whether the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility;
- (viii) Determining whether the project sponsor or MPO has demonstrated that the requirements of 40 CFR § 93.116, 40 CFR § 93.118, and 40 CFR § 93.119 are satisfied without a particular mitigation or control measure, as provided in 40 CFR § 93.125;
- (ix) Evaluating events which will trigger new conformity determinations in addition to those triggering events established in 40 CFR § 93.104;
- (x) Consulting on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment or maintenance areas or air basins;
- (xi) Assuring that plans for construction of regionally significant projects which are not FHWA/FTA projects, including projects for which alternative locations, design concept and scope, or the no-build option are still being considered, are disclosed to the MPO on a regular basis, and assuring that any changes to those plans are immediately disclosed;
- (xii) The design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g., household/travel transportation surveys);
- (xiii) Development of transportation improvement programs;
- (xiv) Development of regional transportation plans;
- (xv) Establishing appropriate public participation opportunities for project-level conformity determinations required by this division, in the manner specified by 23 CFR Part 450; and
- (xvi) Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt

projects listed in 40 CFR § 93.126 and 40 CFR § 93.127.

(E) The chair of each standing committee, or his/her designee, shall set the agenda for all meetings. The chair of each standing committee shall assure that all agendas, and relevant documents and information are supplied to all participants in the consultation process in a timely manner prior to standing committee meetings which address any issues described in paragraph (2)(b)(D) of this rule.

(F) Such standing committees shall begin consultation meetings early in the process of decision on the final document, and shall review all drafts of the final document and major supporting documents. The standing committee shall consult with EPA and USDOT.

(G) The MPO shall confer with the standing committee and shall consult with all other agencies identified under subsection (1)(c) of this rule with an interest in the document to be developed, shall provide all appropriate information to those agencies needed for meaningful input, and consider the views of each such agency. The MPO shall provide draft conformity determinations to standing committee members and shall allow a minimum of 30 days for standing committee members to comment. The 30 day comment period for standing committee members may occur concurrently with the public comment period. The MPO shall respond to substantive comments raised by a standing committee member in a timely, substantive written manner at least 7 days prior to any final decision by the MPO on such document. Such views and written response shall be made part of the record of any decision or action.

(H) The standing committee may, where appropriate, appoint a subcommittee to develop recommendations for consideration by the full committee.

(I) Meetings of the standing committee shall be open to the public. The MPO shall provide timely written notification of standing committee meetings to those members of the public who have requested such notification. In addition, reasonable efforts shall be made to identify and provide timely written notification to interested parties.

(c) An MPO, or any other party responsible for developing Transportation Control Measures, shall consult with affected parties listed in subsection (1)(c) in developing TCMs for inclusion in an applicable implementation plan.

(d) Non-metropolitan areas.

(A) In non-metropolitan areas the following interagency consultation procedures shall apply, unless otherwise agreed to by the affected parties in a Memorandum of Understanding, or specified in an applicable implementation plan:

(B) In each non-metropolitan nonattainment or maintenance area the Oregon Department of Transportation shall facilitate a meeting of the affected agencies listed in subsection (1)(c) of this rule prior to making conformity determinations to:

(i) Determine which minor arterials or other transportation projects shall be considered "regionally significant";

(ii) Determine which projects have undergone significant changes in design concept and scope since the regional emissions analysis was performed;

(iii) Evaluate whether projects otherwise exempted from meeting the requirements of this rule should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason;

(iv) Make a determination, as required by 40 CFR § 93.113, whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs; this consultation process shall also consider whether

delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

(v) Identify, as required by 40 CFR § 93.123 projects located at sites in PM10 or PM2.5 nonattainment or maintenance areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM10 or PM2.5 hot-spot analysis;

(vi) Confer on the forecast of vehicle miles traveled, and any amendments thereto;

(vii) Determine whether the project sponsor has demonstrated that the requirements of 40 CFR § 93.116, 40 CFR § 93.118, and 40 CFR § 93.119 are satisfied without a particular mitigation or control measure, as provided in;

(viii) Evaluate events which will trigger new conformity determinations in addition to those triggering events established in 40 CFR § 93.104;

(ix) Assure that plans for construction of regionally significant projects which are not Federal Highway Administration/Federal Transit Administration projects, including projects for which alternative locations, design concept and scope, or the no-build option are still being considered, are disclosed on a regular basis, and assuring that any changes to those plans are immediately disclosed.

(x) Confer on the design, schedule, and funding of research and data collection efforts and transportation model development (e.g., household/travel transportation surveys).

(xi) Establish appropriate public participation opportunities for project-level conformity determinations required by this rule in the manner specified by 23 CFR Part 450;

(xii) Provide notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in 40 CFR § 93.126 and 40 CFR § 93.127; and

(xiii) Choose conformity tests and methodologies for non-metropolitan nonattainment and maintenance areas, as required by 40 CFR § 93.109.

(C) The Oregon Department of Transportation shall consult with all other agencies identified under subsection (1)(c) of this rule with an interest in the document to be developed, shall provide all appropriate information to those agencies needed for meaningful input, and consider the views of each such agency. All draft regional conformity determinations as well as, supporting documentation shall be made available to agencies with an interest in the document and those agencies shall be given at least 30 days to submit comments on the draft document. Oregon Department of Transportation shall respond to substantive comments received from other agencies in a timely, substantive written manner at least 7 days prior to any final decision on such document. Such views and written response shall be made part of the record of any decision or action.

(D) Meetings hereby required shall be open to the public. Timely written notification of any meetings relating to conformity shall be provided to those members of the public who have requested such notification. In addition, reasonable efforts shall be made to identify and provide timely written notification to interested parties.

(E) If no transportation projects are proposed for the upcoming fiscal year, there is no obligation to facilitate the annual meeting required by paragraphs (2)(d)(B) & (C) of this rule.

(F) The meetings required by paragraphs (2)(d)(B)&(C) of this rule may take place using telecommunications equipment, where appropriate.

(e) An MPO or Oregon Department of Transportation shall facilitate an annual statewide meeting, unless otherwise agreed upon by Oregon Department of Transportation, Oregon Department of Environmental Quality

and the MPOs, of the affected agencies listed in subsection (1)(c) to review procedures for regional emissions and hot-spot modeling.

(A) The members of each agency shall annually jointly review the procedures used by affected MPOs and agencies to determine that the requirements of 40 CFR § 93.122 are being met by the appropriate agency.

(B) An MPO or Oregon Department of Transportation shall facilitate a statewide meeting of parties listed in subsection (1)(c) of this rule to receive comment on the United States Environmental Protection Agency guidelines on hot-spot modeling, to determine the adequacy of the guidelines, and to make recommendations for improved hot-spot modeling to the United States Environmental Protection Agency Regional Administrator. Oregon Department of Environmental Quality, Lane Regional Air Protection Agency, or any other regional air authority, may make recommendations for improved hot-spot modeling guidelines to the United States Environmental Protection Agency Regional Administrator with the concurrence of Oregon Department of Transportation. Oregon Department of Transportation may make recommendations for improved hot-spot modeling guidelines to the United States Environmental Protection Agency Regional Administrator with the concurrence of the affected air quality agency (e.g., Oregon Department of Environmental Quality, Lane Regional Air Protection Agency or any other regional air authority).

(C) The MPO or Oregon Department of Transportation shall determine whether the transportation modeling procedures are in compliance with the modeling requirements of 40 CFR § 93.122. The Oregon Department of Environmental Quality or Lane Regional Air Protection Agency (in Lane County), or any other regional air authority, shall determine whether the modeling procedures are in compliance with the air quality emissions modeling requirements of 40 CFR § 93.122.

(D) The affected agencies shall evaluate and choose a model (or models) and associated methods and assumptions to be used in Hot-Spot Analyses and regional emissions analyses.

(f) The Federal Highway Administration and Federal Transit Administration will, for any proposed or anticipated transportation improvement program (TIP) or transportation plan conformity determination, provide a draft conformity determination to the Environmental Protection Agency for review and comment. The Federal Highway Administration and Federal Transit Administration shall allow a minimum of 14 days for EPA to respond. The United States Department of Transportation shall respond in writing to any significant comments raised by the Environmental Protection Agency before making a final decision. In addition, where the Federal Highway Administration and Federal Transit Administration request any new or revised information to support a TIP or transportation plan conformity determination, The Federal Highway Administration and Federal Transit Administration shall either return the conformity determination for additional consultation under subsections (2)(b) or (2)(d) of this rule, or the Federal Highway Administration and Federal Transit Administration shall provide the new information to the agencies listed in subsection (1)(c) of this rule for review and comment. Where the Federal Highway Administration and Federal Transit Administration choose to provide the new or additional information to the affected agencies listed in subsection (1)(c), the Federal Highway Administration and Federal Transit Administration shall allow for a minimum of 14 days to respond to any new or revised supporting information; the United States Department of Transportation shall respond in writing to any significant comments raised by the agencies consulted on the new or revised supporting information before making a final decision.

(g) Each agency subject to an interagency consultation process under this rule (including any Federal agency) shall provide each final document that is the product of such consultation process, together with all supporting information that has not been the subject of any previous consultation required by this rule, to each other agency that has participated in the consultation process within 14 days of adopting or approving such document or making such determination. Any such agency may supply a checklist of available supporting information, which such other participating agencies may use to request all or part of such supporting information, in lieu of generally distributing all supporting information.

(h) It shall be the affirmative responsibility of the agency with the responsibility for preparing a transportation plan or TIP revision which merely adds or deletes exempt projects listed in OAR 40 CFR § 93.126 to initiate the process by notifying other participants early in the process of decision on the final document and assure that all relevant documents and information are supplied to all participants in the consultation process in a timely manner.

(i) A meeting that is scheduled or required for another purpose may be used for the purposes of consultation required by this rule if the conformity consultation purpose is identified in the public notice for the meeting.

(j) It shall be the affirmative responsibility of a project sponsor to consult with the affected transportation and air quality agencies prior to making a project level conformity determination required by this rule.

(3) Resolving conflicts.

(a) Any conflict among State agencies or between State agencies and an MPO shall be escalated to the Governor if the conflict cannot be resolved by the heads of the involved agencies. In the first instance, such agencies shall make every effort to resolve any differences, including personal meetings between the heads of such agencies or their policy-level representatives, to the extent possible.

(b) A State agency, regional air authority, or MPO has 14 calendar days to appeal a determination of conformity, SIP submittal, or other decision under this division, to the Governor after the State agency, regional air authority, or MPO has been notified of the resolution of all comments on such proposed determination of conformity, SIP submittal, or decision. If an appeal is made to the Governor, the final conformity determination, SIP submittal, or policy decision must have the concurrence of the Governor. The appealing agency must provide notice of any appeal under this subsection to the lead agency. If an action is not appealed to the Governor within 14 days, the lead agency may proceed.

(c) The Governor may delegate the role of hearing any such appeal under this section and of deciding whether to concur in the conformity determination to another official or agency within the State, but not to the head or staff of the State air quality agency or any local air quality agency, the State department of transportation, a State transportation commission or board, the Environmental Quality Commission, any agency that has responsibility for only one of these functions, or an MPO.

(4) Public consultation procedures. Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with these requirements and those of 23 CFR 450.316(b). Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.95. In addition, these agencies must specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

State effective: 3/5/2010; EPA effective: 11/5/2012; 77 FR 60627

340-252-0070 Timeframe of Conformity Determinations

Any election by an MPO to shorten the timeframe of a conformity determination under 40 CFR 93.106(d) requires approval of the Department of Environmental Quality or the Lane Regional Air Protection Agency, as applicable. ~~A shortened timeframe may be appropriate, for example, when projected future emissions fail to meet a Motor Vehicle Emissions Budget (MVEB) due to calculation methods that are inconsistent with the methods used to determine the MVEB. Such circumstances may exist for example, when emissions estimation methods have changed from those used to establish the MVEB.~~

State effective: 3/5/2010; EPA effective: 11/5/2012; 77 FR 60627

340-252-0230 Written Comments

(1) In accordance with 40 CFR 93.122(a)(4)(ii), prior to making a conformity determination on the transportation plan or TIP, a Metropolitan Planning Organization or the Oregon Department of Transportation may not include emissions reduction credits from any control measures that are not included in the transportation plan or TIP and that do not require a regulatory action in the regional emissions analysis unless the Metropolitan Planning Organization, Oregon Department of Transportation or Federal Highway Administration/Federal Transit Administration obtains written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to implement those control measures must be fulfilled by the appropriate entities.

(2) In accordance with 40 CFR 93.125(c), prior to making a project-level conformity determination for a transportation project, the Federal Highway Administration/Federal Transit Administration must obtain from the project sponsor or operator written commitments, as defined in 40 CFR 93.101, to implement any project-level mitigation or control measures in the construction or operation of the project identified as conditions for NEPA process completion. The written commitments to implement those project-level mitigation or control measures must be fulfilled by the appropriate entities. Prior to making a conformity determination on the transportation plan or TIP a Metropolitan Planning Organization or Oregon Department of Transportation must ensure any project-level mitigation or control measures are included in the project design concept and Scope and are appropriately identified in the regional emissions analysis. Prior to making a project-level conformity determination, written commitments must be obtained before such mitigation or control measures are used in a project-level hot-spot analysis.

State effective: 3/5/2010; EPA effective: 11/5/2012; 77 FR 60627

DIVISION 256

MOTOR VEHICLES

340-256-0010 Definitions

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

(1) "Basic test" means an inspection and maintenance program designed to measure exhaust emission levels during an unloaded idle or an unloaded raised idle mode as described in OAR 340-256-0340.

(2) "Carbon dioxide" means a compound consisting of the chemical formula (CO₂).

(3) "Carbon monoxide" means a compound consisting of the chemical formula (CO).

(4) "Certificate of Compliance" means a hard copy or electronic certification issued by a Private Business Fleet, a Public Agency Fleet Vehicle Emission Inspector, a Vehicle Emissions Inspector employed by the Department of Environmental Quality, or an Independent Contractor that the vehicle identified on the certificate is equipped with the required functioning motor vehicle pollution control systems and otherwise complies with the Commission's emission control criteria, standards, and rules.

(5) "Certified Repair Facility" means an automotive repair facility possessing a current and valid certificate issued by the Department that employs automotive technicians certified by the Department's Automotive