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CHAPTER 340
DEPARTMENT OF ENVIRONMENTAL QUALITY

FILING CAPTION: 340-245-0050(1)(b) SMC

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AGENCY ATTESTS THE FOLLOWING CHANGES HAVE BEEN MADE, ACCORDING TO ORS 183.335(7):

Correcting statutory or rule references

AMEND: 340-245-0050

RULE TITLE: Risk Assessment Procedures

RULE SUMMARY: Correcting rule reference in (1)(b) from OAR 240-224-0010 to OAR 340-224-0010

RULE TEXT:

(1) Existing source.

(a) When notified in writing by DEQ, at DEQ's discretion, the owner or operator of an existing source with an operating permit must either demonstrate that it is an exempt source by following the procedure in section (6) or:

(A) Assess risk from the source using any of the Level 1 through Level 4 Risk Assessment procedures in sections (8) through (11);

(B) Assess risk from the source using the emissions inventory submitted under OAR 340-245-0040(1); and

(C) Follow the applicable calculation procedures under OAR 340-245-0200.

(b) The owner or operator proposing an action listed in OAR 340-224-0010(1) or (2) that requires compliance under OAR chapter 340, division 224, "New Source Review" must submit an emissions inventory under OAR 340-245-0040(1) for the proposed modifications or operational changes;

(A) The emissions inventory must be approved by DEQ before the New Source Review application can be deemed complete under OAR 340-224-0030(2); and

(B) The emissions inventory submittal deadline for existing sources in OAR 340-245-0030(1)(a)(A) does not apply.

(c) The owner or operator must demonstrate compliance with paragraph (A), (B), (C) or (D), and also comply with paragraph (E), if applicable.

(A) The owner or operator must demonstrate that the source is a de minimis source by following the procedure in section (7), or demonstrate that the risk from the source is less than or equal to the TBACT Level. The owner or operator of a source whose risk is less than or equal to the TBACT Level must apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 with Source Risk Limits or an application that modifies the existing permit in a manner that ensures that the risk from the source will be less than or equal to the TBACT Level.

(B) Toxic air contaminant monitoring.

(i) Before the owner or operator of a source may begin air monitoring, the owner or operator must complete and submit to DEQ a Level 3 or Level 4 Risk Assessment and comply with the applicable requirements of OAR 340-245-0230.

(ii) An owner or operator may not delay submission of an application for an Air Contaminant Permit Addendum and subsequent implementation of the approved Risk Reduction Plan prepared under OAR 340-245-0130 if a Level 3 or 4 Risk Assessment shows that:
(I) Calculated excess cancer risk exceeds 200 in 1 million;
(II) Calculated noncancer risk exceeds a Hazard Index of 12 if all toxic air contaminants emitted have been assigned a noncancer TBACT Risk Action Level of a Hazard Index of 3;
(III) Calculated noncancer risk exceeds a Hazard Index of 20 if all toxic air contaminants emitted have been assigned a noncancer TBACT Risk Action Level of a Hazard Index of 5; or
(IV) Calculated noncancer Risk Determination Ratio exceeds 4 if air toxic contaminants emitted include a mixture of toxic air contaminants assigned noncancer TBACT Risk Action Levels of both a Hazard Index of 3 and a Hazard Index of 5.
(iii) If the Level 3 or Level 4 Risk Assessment calculates risk from the source that does not cause any exceedances of the criteria in subparagraph (ii), then DEQ shall issue a Toxics Air Contaminant Permit Addendum addressing toxic air contaminant monitoring requirements, including a reporting and compliance schedule for implementing the Toxic Air Contaminant Monitoring Plan required under OAR 340-245-0230;
(iv) Upon completion and DEQ approval of toxic air contaminant monitoring in compliance with OAR 340-245-0230, the owner or operator must use the toxic air contaminant monitoring results, in association with other applicable, relevant data to determine compliance requirements under paragraph (c)(A), (C), or (D) and apply for a Toxic Air Contaminant Permit Addendum modification under OAR 340-245-0100;
(C) TBACT compliance. If the risk from the source is greater than the TBACT Level and less than or equal to the Risk Reduction Level, and all significant TEUs meet TBACT under OAR 340-245-0220, then the owner or operator must apply for a Toxic Air Contaminant Permit Addendum under OAR 340- 245-0100 that includes Source Risk Limits that ensure the risk from the source will be less than or equal to the Risk Reduction Level; or
(D) Risk Reduction Plan. The owner or operator may demonstrate compliance with this paragraph under either subparagraph (i), (ii), or (iii), whichever is applicable:
(i) If the risk from the source is greater than the TBACT Level and the owner or operator can make physical, operational or process changes to reduce the risk to less than or equal to the TBACT Level, then the owner or operator must apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 that includes a Risk Reduction Plan under OAR 340-245-0130 and Source Risk Limits that ensure that the risk from the source will be less than or equal to the TBACT Level;
(ii) If the risk from the source is greater than the TBACT Level and less than or equal to the Risk Reduction Level, but not all significant TEUs meet TBACT under OAR 340-245-0220, then the owner or operator must either reduce risk below the TBACT Level under subparagraph (i) or apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 that includes a Risk Reduction Plan under OAR 340-245-0130 to meet TBACT on all significant TEUs and Source Risk Limits that ensure that the risk from the source will be less than or equal to the Risk Reduction Level; or
(iii) If the risk from the source is greater than the Risk Reduction Level, the owner or operator must meet the requirements in subparagraph (ii) and apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 that includes a Risk Reduction Plan under OAR 340-245-0130 with additional risk reduction measures and Source Risk Limits that ensure that the risk from the source will be less than or equal to the Risk Reduction Level.
(E) If the risk from the source is greater than the Immediate Curtailment Level, the owner or operator must take immediate action to reduce risk to below the Immediate Curtailment Level under OAR 340-245-0130(7).
(2) New or reconstructed source.
(a)(A) The owner or operator of a proposed new or reconstructed source that is required to obtain a Simple or Standard Air Contaminant Discharge Permit, and that is not an exempt source as determined by the procedure in section (6), must also perform a risk assessment, and if applicable, apply for a Toxic Air Contaminant Permit Addendum concurrently with an application for a permit under OAR chapter 340, division 216, before a permit is issued. If DEQ approves the applications, then DEQ will incorporate the toxic air contaminant permit conditions directly into the new

Simple or Standard Air Contaminant Discharge Permit and will not issue a separate Toxic Air Contaminant Permit Addendum.
(B) DEQ may require the owner or operator of a proposed new or reconstructed source that is required to obtain a Basic or a General Air Contaminant Discharge Permit to perform a risk assessment and demonstrate compliance with this division, and if applicable, apply for a Toxic Air Contaminant Permit Addendum concurrently with an application for a permit under OAR chapter 340, division 216.
(i) If DEQ approves the applications for a source that will have a Basic Air Contaminant Discharge Permit, then DEQ will incorporate the toxic air contaminant permit conditions directly into the new operating permit.
(ii) If DEQ approves the applications for a source that will be assigned to a General Air Contaminant Discharge Permit, then DEQ will issue a Toxic Air Contaminant Permit Addendum as a source-specific addendum to the new operating permit that will not be incorporated into the operating permit.
(C) Any owner or operator of a proposed new or reconstructed source that is required to perform a risk assessment must:
(i) Assess risk from the source using any of the Level 1 through Level 4 Risk Assessment procedures in sections (8) through (11);
(ii) Assess risk from the source using the emissions inventory submitted under OAR 340-245-0040(1); and
(iii) Follow the applicable calculation procedures under OAR 340-245-0200.
(b) The owner or operator of a new or reconstructed source must demonstrate compliance with either paragraph (A) or (B).
(A) The owner or operator must demonstrate that the source is a de minimis source by following the procedure in section (7), or demonstrate that the risk from the source is less than or equal to the TLAER Level. The owner or operator of a source whose risk is less than or equal to the TLAER Level must apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 or an operating permit with Source Risk Limits that ensure that the risk from the source will be less than or equal to the TLAER Level; or
(B) TLAER compliance. If the risk from the new or reconstructed source is greater than the TLAER Level and less than or equal to the Permit Denial Level, and all significant TEUs meet TLAER under OAR 340-245-0220, then the owner or operator must apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 or an operating permit that includes Source Risk Limits that ensure the risk from the source will be less than or equal to the Permit Denial Level.
(3) Other sources. When notified in writing by DEQ, the owner or operator of a source that is not subject to sections (1) or (2) must perform a risk assessment using any of the Level 1 through Level 4 Risk Assessment procedures in sections (8) through (11). DEQ may notify such a source after determining through an investigation or file review that the source may emit toxic air contaminants in quantities that may cause the source's risk to exceed the Source Permit Level.
(4) A risk assessment for a source must include all TEUs at the source, as of the date that the owner or operator submits an application under OAR 340-245-0100 for a Toxic Air Contaminant Permit Addendum, except for the following:
(a) Exempt TEUs; and
(b) Gas combustion TEUs, as provided under section (5).
(5) Gas combustion exemption. This exemption applies to TEUs that solely combust natural gas, propane, liquefied petroleum gas, and, when approved by DEQ in response to a written request by an owner or operator, pretreated landfill gas and pretreated digester gas or biogas. Risk from toxic air contaminants emitted from such combustion must be calculated and reported in the risk assessment, but the risk from such toxic air contaminants may be treated as follows:
(a) At each exposure location, risk must be reported as two values:
(A) The risk from toxic air contaminants emitted from such combustion of natural gas, propane, liquefied petroleum gas, pretreated landfill gas and pretreated digester gas or biogas; and
(B) The risk from all other toxic air contaminant emissions;
(b) At each exposure location, the risk from toxic air contaminants emitted solely from the combustion of natural gas,

propane, liquefied petroleum gas, pretreated landfill gas and pretreated digester gas or biogas may be excluded from the total risk for the purpose of determining compliance with Risk Action Levels and may be omitted from any requirements determined under a Risk Reduction Plan under OAR 340-245- 0130 if good air pollution control practices are followed to ensure proper combustion; and

(c) Notwithstanding subsections (a) and (b), an owner or operator must include in its risk assessment any toxic air contaminants that are emitted from materials that are contacted by the flame or combustion gases from the combustion of natural gas, propane, liquefied petroleum gas, pretreated landfill gas or pretreated digester gas or biogas. Materials that may emit toxic air contaminants include but are not limited to VOCs combusted in thermal oxidizers and materials dried in direct-contact dryers.

(6) Exempt Source Determination.

(a) To be approved as an exempt source, no later than 30 days after the date that DEQ sends a notice under subsection (1)(a), or with submittal of an application for a new or reconstructed source under subsection (2)(a), the owner or operator must submit information to DEQ that demonstrates that all TEUs at the source are exempt TEUs as provided in OAR 340-245-0060(3); and

(b) Upon receipt of a submittal from an owner or operator under subsection (a), DEQ will:

(A) Review the submissions and, if approved, write a memo to the DEQ file for the source summarizing the assessment that will be:

(i) Incorporated into the review report of a permitted source upon permit issuance or renewal; or

(ii) Maintained in the file and tracked in a DEQ database.

(B) Follow the Category I public notice procedure in OAR chapter 340, division 209, prior to approving or denying the request to be considered an exempt source; and

(C) Keep records of exempt sources in a database for the emissions inventory and future communication if RBCs change or other information about risk is received such that toxic air contaminant emissions must be reevaluated.

(7) De minimis Source Determination.

(a) To be approved as a de minimis source, the owner or operator must assess risk at the capacity of all significant and aggregated TEUs, using any of the Level 1 through Level 4 Risk Assessment procedures in sections (8) through (11). The owner or operator must submit to DEQ the following, as applicable:

(A) Information that demonstrates the source does not exceed the Source Permit Level when operating without control devices;

(B) Information that demonstrates the source does not exceed the Source Permit Level if the owner or operator is required to operate and maintain control devices to remain a de minimis source and the existing or proposed operating permit includes necessary conditions to operate and maintain the control devices; or

(C) An application for a Toxic Air Contaminant Permit Addendum that demonstrates that the source does not exceed the Source Permit Level if the owner or operator is required to operate and maintain control devices to remain a de minimis source, and the existing or proposed operating permit does not include necessary conditions to operate and maintain the control devices.

(b) Upon receipt of a submittal from an owner or operator under subsection (a), DEQ will:

(A) Review the submissions and, if approved, either:

(i) Write a memo to the DEQ file for the source summarizing the assessment that will be:

(I) Incorporated into the review report of a permitted source upon permit issuance or renewal; or

(II) Maintained in the file and tracked in a DEQ database for sources that meet the criteria in paragraph (a)(A) or (B); or

(ii) Issue a Toxic Air Contaminant Permit Addendum or operating permit, for sources that meet the criteria in paragraph (a)(C);

(B) Follow the Category I public notice procedure in OAR chapter 340, division 209, prior to approving or denying the request to be considered a de minimis source; and

(C) Keep records of de minimis sources in a database for the emissions inventory and future communication if RBCs change or other information about risk is received such that toxic air contaminant emissions must be reevaluated.

(8) Level 1 Risk Assessment. To complete a Level 1 Risk Assessment, the owner or operator must comply with OAR 340-245-0210(1) and then assess risk by using the Level 1 Risk Assessment Dispersion Factor Tables in OAR 340-245-8010 Tables 3A through 3D to determine toxic air contaminant concentrations at approved exposure locations.
(a) The owner or operator must follow the directions for using the Level 1 Risk Assessment Dispersion Factor Tables described in OAR 340-245-0200(2);
(b) For sources with multiple stacks, stacks must either be considered individually using OAR 340-245- 8010 Tables 3A and 3B with risk calculated as the summation of individual stack risk, or the stacks combined into a single stack in a manner approved by DEQ and risk calculated for that single stack;
(c) A Level 1 Risk Assessment may not be approved if DEQ determines that the actual source modeling parameters, such as terrain features, exposure location distances less than 50m, unusual stack or building configurations, or other factors may invalidate the assumptions used to develop the Level 1 Risk Assessment Dispersion Factor Tables in OAR 340-245-8010 Table 3; and
(d) If DEQ concludes that the source complies with this division based on a Level 1 Risk Assessment, then DEQ will follow the Category II public notice procedure in OAR chapter 340, division 209 for issuance of the Toxic Air Contaminant Permit Addendum.
(9) Level 2 Risk Assessment. To complete a Level 2 Risk Assessment, the owner or operator must comply with OAR 340-245-0210(1) and then assess risk by submitting a modeling protocol, conducting modeling, and performing a risk assessment. The owner or operator must use AERSCREEN or comparable screening model approved by DEQ to determine air concentrations at approved exposure locations. If DEQ concludes that the source complies with this division based on a Level 2 Risk Assessment, then DEQ will follow the Category II public notice procedure in OAR chapter 340, division 209 for issuance of the Toxic Air Contaminant Permit Addendum.
(10) Level 3 Risk Assessment. To complete a Level 3 Risk Assessment, the owner or operator must comply with OAR 340-245-0210 and then assess risk by submitting a modeling protocol and a risk assessment work plan, conducting modeling, and performing a risk assessment. The owner or operator must use AERMOD or comparable model approved by DEQ to determine air concentrations at approved exposure locations. If DEQ concludes that the source complies with this division based on a Level 3 Risk Assessment, then DEQ will follow the Category III public notice procedure in OAR chapter 340, division 209 for issuance of the Toxic Air Contaminant Permit Addendum.
(11) Level 4 Risk Assessment. To complete a Level 4 Risk Assessment, the owner or operator must comply with OAR 340-245-0210 and then assess risk by submitting a modeling protocol and a risk assessment work plan, conducting modeling, and performing a risk assessment. The owner or operator must use AERMOD or comparable model approved by DEQ to determine air concentrations at approved exposure locations. The risk assessment must include toxicity and bioaccumulation assessments, and may include proposed modifications to default exposure assumptions as specified in OAR 340-245-0210. If DEQ concludes that the source complies with this division based on a Level 4 Risk Assessment, then DEQ will follow the Category III public notice procedure in OAR chapter 340, division 209 for issuance of the Toxic Air Contaminant Permit Addendum.
(12) DEQ may require the owner or operator of a source to conduct and submit an additional multipathway risk evaluation for any level of risk assessment if DEQ determines that airborne deposition of chemicals could be important for scenarios not included in the default multipathway adjustment factor assumptions used in the original risk assessment for the source.

STATUTORY/OTHER AUTHORITY: ORS 468.020, ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, Or Laws 2018, ch. 102, § 7, 468A.135, 468A.337

STATUTES/OTHER IMPLEMENTED: ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, Or Laws 2018, ch. 102, § 7, 468A.337, 468A.335