State of Oregon
Department of Environmental Quality Memorandum

Date: July 23, 2010

To: Environmental Quality Commission

From: Dick Pedersen, Director

Subject: Agenda item N, Temporary rule adoption: $PM_{2.5}$ New Source Review/Prevention of Significant Deterioration and Air Contaminant Discharge Permit Deferral August 18-19, 2010 EQC meeting

Why is this important

EPA is planning to revoke a policy that has deferred application of preconstruction permitting requirements for major new or modified sources of $PM_{2.5,}$ or fine particulate matter less than 2.5 microns in diameter. These proposed temporary rules include the basic program elements needed by DEQ to implement the preconstruction permitting program for $PM_{2.5}$.

In addition, the EQC has recently adopted new federal standards that reduce hazardous air pollutant emissions from a large number of small sources, many of which are subject to permitting for the first time. This has resulted in a large number of permit applications that need to be submitted and processed at the same time. These proposed temporary rules would allow DEQ to phase-in the permitting requirements by source category and allow for more timely and efficient processing of applications.

DEQ recommendation and EQC motion

DEQ recommends that the commission adopt the statement of need and justification for temporary rules as shown in attachment D, and adopt amendments to OAR 340, Divisions 200, 202, 216, 224 and 225 as shown in attachment A.

Background and need for rulemaking

New Source Review/Prevention of Significant Deterioration

In 1997, EPA adopted the first National Ambient Air Quality Standards for $PM_{2.5}$ based on the link between fine particulate matter and serious health problems ranging from increased respiratory and pulmonary symptoms, hospital admissions and emergency room visits to premature death for people with heart and lung disease. Once EPA adopted these standards, major new and modified sources of $PM_{2.5}$ became subject to the New Source Review/Prevention of Significant Deterioration program.

However, due to a lack of tools and procedures needed to implement NSR/PSD for $PM_{2.5}$, EPA adopted a PM_{10} Surrogate Policy covering particulate matter less than or equal to 10 micrometers in diameter. The policy enabled sources to demonstrate compliance with NSR/PSD using PM_{10}

as a surrogate for $PM_{2.5}$. Recently, EPA determined that undertaking a $PM_{2.5}$ analysis is no longer constrained by technical challenges that included a lack of $PM_{2.5}$ monitoring sites, tools to calculate $PM_{2.5}$ emissions and related precursors, and modeling techniques to project ambient impacts. As a result, EPA plans to revoke the PM_{10} surrogate policy.

NSR/PSD is a pre-construction permitting program that serves two important purposes:

1. It ensures air quality is maintained when factories, industrial boilers and power plants are built or modified.
2. It also ensures that state-of-the art emission control technology is installed at new plants or existing plants that are undergoing a major modification.

If a major source makes a change at its facility that increases emissions above a threshold, the owner or operator must go through NSR/PSD to make sure the source is not causing additional air quality problems. NSR ensures that major new and modified sources help improve air quality in designated areas that violate ambient air quality standards. PSD ensures that major new and modified sources do not cause significant worsening of air quality in areas that meet ambient air quality standards.

There are about 115 major sources in Oregon including businesses such as pulp and paper, steel mills, wood products, electronics, and power generation. The NSR/PSD analysis includes a review of control technology, modeling air quality impacts and assessing impacts on soils, vegetation and visibility. This could result in a need to install new emission controls. The fee for this type of permit is $42,000 and can take at least seven months to process.

EPA's pending revocation of the PM_{10} Surrogate Policy creates a problem since Oregon has not yet adopted rules needed to implement the NSR/PSD program for $PM_{2.5}$. There is no threshold, or significant emission rate, for $PM_{2.5}$ in Oregon's rules, so any increase in permitted $PM_{2.5}$ emissions would trigger the extensive PSD/NSR analysis. This would cause a considerable increase in workload for the regulated community and DEQ with no appreciable environmental benefit. These proposed rule changes prevent these problems by adopting EPA's $PM_{2.5}$ PSD thresholds and other NSR/PSD implementing rules.

Area Source NESHAP Permitting

DEQ is in the process of permitting sources newly subject to federal area source National Emission Standards for Hazardous Air Pollutants. In December 2009, the commission adopted new area source NESHAP rules, which apply to a large number of small hazardous air pollutant emission sources that collectively contribute to significant public health risks. To ensure compliance with the NESHAPs, the rules require over one thousand businesses to obtain an air quality permit, many of which are subject to permitting for the first time.

The current rules allow DEQ to defer the deadline to apply for these permits until October 2010, and to defer the deadline to obtain these permits until December 2010. However, the commission's rules allow sources to apply as late 60 days before the permit issuance deadlines. As a result, hundreds of sources could apply for their permits in October 2010. DEQ lacks the permitting resources to process and issue hundreds of new permit applications in two months, and therefore many sources would not receive their permits by December 2010 as required by law. The NESHAP permit application overload could prevent DEQ permitting staff from completing the remainder of its permit work in a timely fashion.

The proposed temporary rule would alleviate these potential problems by allowing DEQ to phase-in permit application deadlines by source category, so that not all source categories would submit their applications at the same time and overwhelm DEQ's capacity to process them.

Effect of rule

The proposed temporary rule amendments would adopt a significant emission rate, or threshold, of 10 tons per year of $PM_{2.5}$. A facility would not need to go through the New Source Review/Prevention of Significant Deterioration permitting process unless the company made a physical change that increased emissions above this threshold. The proposed amendments would also adopt significant air quality impact levels (used to determine if additional air quality analysis is required), PSD increments (used to track the cumulative impact of emissions growth in areas that meet air quality standards), and significant monitoring concentrations for $PM_{2.5}$ (used to determine if preconstruction monitoring is required). The proposal would allow businesses to continue to use the PM_{10} Surrogate Policy until it is revoked by EPA. These changes are needed for DEQ to implement the New Source Review/Prevention of Significant Deterioration program for $PM_{2.5}$ without causing an excessive burden for both DEQ and regulated businesses.

The proposed temporary rulemaking would also allow DEQ to defer the requirement for certain sources subject to new air quality standards to submit an application for, or to obtain, an Air Contaminant Discharge Permit for up to twelve months, as compared to six months allowed in the current rules.

A summary of rule changes, including the reason or basis for each change, is shown in Attachment B.

Commission authority

The commission has authority to take this action under ORS 468.020, ORS 468.065, ORS 468A.025, ORS 468A.040, and ORS 468A.055.

Stakeholder involvement

DEQ held a public meeting to discuss the proposed $PM_{2.5}$ permitting rule changes and the Air Contaminant Discharge Permit application deferral on July 19, 2010. Stakeholders including permit holders and people interested in air quality rulemakings were invited. Comments on the proposed temporary rules were accepted at the meeting and by email.

Public comment

A temporary rulemaking does not require a public comment period; however, DEQ accepted comment on the temporary rulemaking during the July 19 stakeholder meeting. Attachment C summarizes public comment.

Key issues

The proposed rule amendments would help DEQ and businesses implement New Source Review/Prevention of Significant Deterioration as EPA intended. It would also allow DEQ to defer permitting deadlines for up to twelve months, thus allowing DEQ to phase-in permitting requirements by source category, so that DEQ permitting staff members are not overwhelmed by permit applications that are submitted just before the single application deadline for all sources, and that DEQ cannot process timely and as needed by sources.

Next steps

If adopted, the proposed temporary rule amendments would become effective upon filing with the Secretary of State and would be effective for no more than 180 days. Training will be needed to implement the proposed rule. In February 2011, DEQ will propose a permanent $PM_{2.5}$ New Source Review/Prevention of Significant Deterioration rule. Also in February 2011, DEQ will propose to make the twelve-month permitting deferral permanent.

Attachments

A. Proposed rule (with amendments shown in redline format)
B. Summary of Rule Changes (including reason/basis for changes)
C. Public comments
D. Statement of Need and Justification

Available upon request

1. ORS 468.020, ORS 468.065, ORS 468A.025, ORS 468A.040, and ORS 468A.055.

Approved:

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The Oregon Administrative Rules contain OARs filed through May 14, 2010

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 200

GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

340-200-0020

General Air Quality Definitions

As used in divisions 200 through 268, unless specifically defined otherwise:
(1) "Act" or "FCAA" means the Federal Clean Air Act, 42 U.S.C.A. 7401 to 7671q.
(2) "Activity" means any process, operation, action, or reaction (e.g., chemical) at a source that emits a regulated pollutant.
(3) "Actual emissions" means the mass emissions of a pollutant from an emissions source during a specified time period.
(a) For determining actual emissions as of the baseline period:
(A) Except as provided in paragraph (B), actual emissions equal the average rate at which the source actually emitted the pollutant during a baseline period and that represents normal source operation;
(B) The Department presumes that the source-specific mass emissions limit included in a source's permit that was effective on September 8, 1981 is equivalent to the source's actual emissions during the baseline period if it is within 10% of the actual emissions calculated under paragraph (A).
(~~C~~b) For any source that had not begun normal operation, actual emissions equal the potential to emit of the source.
(~~b~~c) For determining actual emissions for Emission Statements under OAR 340-214-0200 through 340-214-0220 and Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions include, but are not limited to, routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities, except categorically insignificant activities and secondary emissions.
(~~c~~d) For Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions must be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the specified time period.
(4) "Adjacent" means interdependent facilities that are nearby to each other.
(5) "Affected source" means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.

(6) "Affected states" means all states:
(a) Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or
(b) That are within 50 miles of the permitted source.
(7) "Aggregate insignificant emissions" means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified.
(a) One ton for total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, and each criteria pollutant, except lead;
(b) 120 pounds for lead;
(c) 600 pounds for fluoride;
(d) 500 pounds for PM10 in a PM10 nonattainment area;
(e) 500 pounds for PM2.5 in a PM2.5 nonattainment area;
(~~e~~f) The lesser of the amount established in OAR 340-244-0040, Table 1 or 340-244-0230, Table 3, or 1,000 pounds;
(~~f~~g) An aggregate of 5,000 pounds for all Hazardous Air Pollutants.
(8) "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.
(9) "Air Contaminant Discharge Permit" or "ACDP" means a written permit issued, renewed, amended, or revised by the Department, pursuant to OAR 340 division 216.
(10) "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance. An alternative method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.
(11) "Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.
(12) "Applicable requirement" means all of the following as they apply to emissions units in an Oregon Title V Operating Permit program source or ACDP program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:
(a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;
(b) Any standard or other requirement adopted under OAR 340-200-0040 of the State of Oregon Clean Air Act Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;
(c) Any term or condition in an ACDP, OAR 340 division 216, including any term or condition of any preconstruction permits issued pursuant to OAR 340 division 224, New Source Review,

until or unless the Department revokes or modifies the term or condition by a permit modification;
(d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-210-0205 through 340-210-0240, until or unless the Department revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;
(e) Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless the Department revokes or modifies the term or condition by a Notice of Approval or a permit modification;
(f) Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;
(g) Any standard or other requirement under section 111 of the Act, including section 111(d);
(h) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;
(i) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;
(j) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;
(k) Any standard or other requirement under section 126(a)(1) and(c) of the Act;
(l) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;
(m) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;
(n) Any standard or other requirement for tank vessels, under section 183(f) of the Act;
(o) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;
(p) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in an Oregon Title V Operating Permit; and
(q) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.
(13) "Baseline Emission Rate" means the actual emission rate during the baseline period. Baseline emission rate does not include increases due to voluntary fuel switches or increased hours of operation that occurred after the baseline period.
(14) "Baseline Period" means any consecutive 12 calendar month period during the calendar years ~~1977 or 1978~~specified in (a) through (b) below. The Department may allow the use of a prior time period upon a determination that it is more representative of normal source operation.
(a) For any regulated pollutant other than PM2.5, calendar years 1977 or 1978;
(b) For PM2.5, calendar years 2006 or 2007.
(15) "Best Available Control Technology" or "BACT" means an emission limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event may the application of BACT result in emissions of

any air contaminant that would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard must, to the degree possible, set forth the emission reduction achievable and provide for compliance by prescribing appropriate permit conditions.
(16) "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.
(17) "Capture system" means the equipment (including but not limited to hoods, ducts, fans, and booths) used to contain, capture and transport a pollutant to a control device.
(18) "Categorically insignificant activity" means any of the following listed pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.
(a) Constituents of a chemical mixture present at less than 1% by weight of any chemical or compound regulated under divisions 200 through 268 excluding divisions 248 and 262 of this chapter, or less than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year;
(b) Evaporative and tail pipe emissions from on-site motor vehicle operation;
(c) Distillate oil, kerosene, and gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hr;
(d) Natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr;
(e) Office activities;
(f) Food service activities;
(g) Janitorial activities;
(h) Personal care activities;
(i) Groundskeeping activities including, but not limited to building painting and road and parking lot maintenance;
(j) On-site laundry activities;
(k) On-site recreation facilities;
(l) Instrument calibration;
(m) Maintenance and repair shop;
(n) Automotive repair shops or storage garages;
(o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
(p) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;
(q) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;
(r) Temporary construction activities;
(s) Warehouse activities;
(t) Accidental fires;
(u) Air vents from air compressors;
(v) Air purification systems;
(w) Continuous emissions monitoring vent lines;

(x) Demineralized water tanks;
(y) Pre-treatment of municipal water, including use of deionized water purification systems;
(z) Electrical charging stations;
(aa) Fire brigade training;
(bb) Instrument air dryers and distribution;
(cc) Process raw water filtration systems;
(dd) Pharmaceutical packaging;
(ee) Fire suppression;
(ff) Blueprint making;
(gg) Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;
(hh) Electric motors;
(ii) Storage tanks, reservoirs, transfer and lubricating equipment used for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;
(jj) On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;
(kk) Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;
(ll) Pressurized tanks containing gaseous compounds;
(mm) Vacuum sheet stacker vents;
(nn) Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;
(oo) Log ponds;
(pp) Storm water settling basins;
(qq) Fire suppression and training;
(rr) Paved roads and paved parking lots within an urban growth boundary;
(ss) Hazardous air pollutant emissions of fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;
(tt) Health, safety, and emergency response activities;
(uu) Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency as determined by the Department;
(vv) Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;
(ww) Non-contact steam condensate flash tanks;
(xx) Non-contact steam vents on condensate receivers, deaerators and similar equipment;
(yy) Boiler blowdown tanks;
(zz) Industrial cooling towers that do not use chromium-based water treatment chemicals;
(aaa) Ash piles maintained in a wetted condition and associated handling systems and activities;
(bbb) Oil/water separators in effluent treatment systems;
(ccc) Combustion source flame safety purging on startup;

(ddd) Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;
(eee) Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and
(fff) White water storage tanks.
(19) "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.
(20) "CFR" means Code of Federal Regulations.
(21) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-204-0050.
(22) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the Act and either has:
(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time; or
(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.
(23) "Commission" or "EQC" means Environmental Quality Commission.
(24) "Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.
(25) "Construction":
(a) Except as provided in subsection(b) of this section means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;
(b) As used in OAR 340 division 224 means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or change in the method of operation of a source which would result in a change in actual emissions.
(26) "Continuous compliance determination method" means a method, specified by the applicable standard or an applicable permit condition, which:
(a) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and
(b) Provides data either in units of the standard or correlated directly with the compliance limit.
(27) "Continuous Monitoring Systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.
(28) "Control device" means equipment, other than inherent process equipment, that is used to destroy or remove air pollutant(s) prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices(such as carbon beds), condensers, scrubbers(such as wet collection and gas absorption devices), selective catalytic or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems(such as water, steam, ammonia, sorbent or limestone injection), and combustion devices independent of the particular process being conducted at an

emissions unit(e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters). For purposes of OAR 340-212-0200 through 340-212-0280, a control device does not include passive control measures that act to prevent pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular pollutant-specific emissions unit, then that definition will be binding for purposes of OAR 340-212-0200 through 340-212-0280.
(29) "Criteria Pollutant" means nitrogen oxides, volatile organic compounds, particulate matter, PM10, PM2.5, sulfur dioxide, carbon monoxide, or lead.
(30) "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.
(31) "De minimis emission level" means: [Table not included. See ED. NOTE.]
NOTE: De minimis is compared to all increases that are not included in the PSEL.
(32) "Department":
(a) Means Department of Environmental Quality; except
(b) As used in OAR 340 divisions 218 and 220 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Protection Agency.
(33) "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.
(34) “Direct PM2.5” has the meaning provided in the definition of PM2.5.
(3~~4~~5) "Director" means the Director of the Department or the Director's designee.
(3~~5~~6) "Draft permit" means the version of an Oregon Title V Operating Permit for which the Department or Lane Regional Air Protection Agency offers public participation under OAR 340-218-0210 or the EPA and affected State review under 340-218-0230.
(3~~6~~7) "Effective date of the program" means the date that the EPA approves the Oregon Title V Operating Permit program submitted by the Department on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.
(3~~7~~8) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
(3~~8~~9) "Emission" means a release into the atmosphere of any regulated pollutant or any air contaminant.
(~~39~~40) "Emission Estimate Adjustment Factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.
(4~~0~~1) "Emission Factor" means an estimate of the rate at which a pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or

process rate). Where an emission factor is required sources must use an emission factor approved by EPA or the Department.

(41~~1~~2)(a) Except as provided in subsection (b) of this section, "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or the EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(b) As used in OAR 340-212-0200 through 340-212-0280, "Emission limitation or standard" means any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the Act. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions (e.g., pounds of SO2 per hour, pounds of SO2 per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO2) or as the relationship of uncontrolled to controlled emissions (e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO2). An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of 340-212-0200 through 340-212-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, to operate and maintain sources in accordance with good air pollution control practices, to develop and maintain a malfunction abatement plan, to keep records, submit reports, or conduct monitoring.

(42~~2~~3) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of OAR 340 division 268, Emission Reduction Credits, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(43~~3~~4) "Emission Reporting Form" means a paper or electronic form developed by the Department that must be completed by the permittee to report calculated emissions, actual emissions, or permitted emissions for interim emission fee assessment purposes.

(44~~4~~5) "Emissions unit" means any part or activity of a source that emits or has the potential to emit any regulated air pollutant.

(a) A part of a source is any machine, equipment, raw material, product, or byproduct that produces or emits regulated air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits regulated air pollutants. Except as described in subsection (d) of this section, parts and activities may be grouped for purposes of defining an emissions unit if the following conditions are met:

(A) The group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply; and

(B) The emissions from the emissions unit are quantifiable.

(b) Emissions units may be defined on a pollutant by pollutant basis where applicable.

(c) The term emissions unit is not meant to alter or affect the definition of the term "unit" under Title IV of the FCAA.

(d) Parts and activities cannot be grouped for determining emissions increases from an emissions unit under OAR 340-224-0050 through 340-224-0070, or 340 division 210, or for determining the applicability of any New Source Performance Standard (NSPS).

(4~~5~~6) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.
(4~~6~~7) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.
(4~~7~~8) "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.
(4~~8~~9) "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions (or opacity) are greater than the applicable emission limitation or standard(or less than the applicable standard in the case of a percent reduction requirement) consistent with any averaging period specified for averaging the results of the monitoring.
(~~49~~50) "Excess emissions" means emissions in excess of a permit limit or any applicable air quality rule.
(5~~0~~1) "Excursion" means a departure from an indicator range established for monitoring under OAR 340-212-0200 through 340-212-0280 and 340-218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.
(5~~1~~2) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.
(5~~2~~3) Federal Major Source means a source with potential to emit any individual regulated pollutant, excluding hazardous air pollutants listed in OAR 340 division 244, greater than or equal to 100 tons per year if in a source category listed below, or 250 tons per year if not in a source category listed. Potential to emit calculations must include emission increases due to a new or modified source.
(a) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;
(b) Coal cleaning plants with thermal dryers;
(c) Kraft pulp mills;
(d) Portland cement plants;
(e) Primary Zinc Smelters;
(f) Iron and Steel Mill Plants;
(g) Primary aluminum ore reduction plants;
(h) Primary copper smelters;
(i) Municipal Incinerators capable of charging more than 50 tons of refuse per day;
(j) Hydrofluoric acid plants;
(k) Sulfuric acid plants;
(l) Nitric acid plants;
(m) Petroleum Refineries;
(n) Lime plants;
(o) Phosphate rock processing plants;
(p) Coke oven batteries;
(q) Sulfur recovery plants;
(r) Carbon black plants, furnace process;
(s) Primary lead smelters;
(t) Fuel conversion plants;

(u) Sintering plants;
(v) Secondary metal production plants;
(w) Chemical process plants;
(x) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;
(y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(z) Taconite ore processing plants;
(aa) Glass fiber processing plants;
(bb) Charcoal production plants.
(534) "Final permit" means the version of an Oregon Title V Operating Permit issued by the Department or Lane Regional Air Protection Agency that has completed all review procedures required by OAR 340-218-0120 through 340-218-0240.
(545) "Fugitive Emissions":
(a) Except as used in subsection (b) of this section, means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.
(b) As used to define a major Oregon Title V Operating Permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
(556) "General permit":
(a) Except as provided in subsection (b) of this section, means an Oregon Air Contaminant Discharge Permit established under OAR 340-216-0060;
(b) As used in OAR 340 division 218 means an Oregon Title V Operating Permit established under OAR 340-218-0090.
(567) "Generic PSEL" means: ~~[Table not included. See ED. NOTE.]~~
NOTE: Sources are eligible for a generic PSEL if expected emissions are less than or equal to the levels listed in the table above. Baseline emission rate and netting basis do not apply to pollutants at sources using generic PSELs.
(578) "Growth Allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.
(589) "Immediately" means as soon as possible but in no case more than one hour after a source knew or should have known of an excess emission period.
(5960) "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of OAR 340-212-0200 through 340-212-0280, inherent process equipment is not considered a control device.
(601) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.
(612) "Insignificant Change" means an off-permit change defined under OAR 340-218-0140(2)(a) to either a significant or an insignificant activity which:
(a) Does not result in a re-designation from an insignificant to a significant activity;
(b) Does not invoke an applicable requirement not included in the permit; and
(c) Does not result in emission of regulated air pollutants not regulated by the source's permit.

(623) "Late Payment" means a fee payment which is postmarked after the due date.
(634) "Lowest Achievable Emission Rate" or "LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. The application of this term cannot permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.
(645) "Maintenance Area" means a geographical area of the State that was designated as a nonattainment area, redesignated as an attainment area by EPA, and redesignated as a maintenance area by the Environmental Quality Commission in OAR 340, division 204.
(656) "Maintenance Pollutant" means a pollutant for which a maintenance area was formerly designated a nonattainment area.
(667) "Major Modification" means any physical change or change of operation of a source that results in the following for any regulated air pollutant:
(a) An increase in the PSEL by an amount equal to or more than the significant emission rate over the netting basis; and
(b) The accumulation of physical changes and changes of operation since baseline would result in a significant emission rate increase.
(A) Calculations of emission increases in(b) must account for all accumulated increases in actual emissions due to physical changes and changes of operation occurring at the source since the baseline period, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations in OAR 340 division 224 for that pollutant, whichever time is more recent. These include emissions from insignificant activities.
(B) Emission increases due solely to increased use of equipment or facilities that existed during the baseline period are not included, if that increased use was possible during the baseline period under the baseline configuration of the source, and the increased use of baseline equipment capacity is not to support a physical change or change in operation.
(c) For new or modified major sources that were permitted to construct and operate after the baseline period and were not subject to New Source Review, a major modification means:
(A) Any change at a source, including production increases, that would result in a Plant Site Emission Limit increase of 1 ton or more for any regulated pollutant for which the source is a major source; or
(B) The addition or modification of any stationary source or sources after the initial construction that have cumulative potential emissions greater than or equal to the significant emission rate, excluding any emission decreases.
(C) Changes to the PSEL solely due to the availability of better emissions information are exempt from being considered an increase.
(d) The following are not considered major modifications:
(A) Except as provided in(c), proposed increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit and would not involve a physical change or change in method of operation in the source;
(B) Pollution control projects that are determined by the Department to be environmentally beneficial;
(C) Routine maintenance, repair, and replacement of components;

(D) Temporary equipment installed for maintenance of the permanent equipment if the temporary equipment is in place for less than six months and operated within the permanent equipment's existing PSEL;
(E) Use of alternate fuel or raw materials, that were available and the source was capable of accommodating in the baseline period.
(6~~7~~8) "Major Source":
(a) Except as provided in subsection (b), means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. This includes emissions from insignificant activities.
(b) As used in OAR 340 division 210, Stationary Source Notification Requirements, OAR 340 division 218, rules applicable to sources required to have Oregon Title V Operating Permits, OAR 340 division 220, Oregon Title V Operating Permit Fees, and 340-216-0066 Standard ACDPs, means any stationary source(or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person(or persons under common control)) belonging to a single major industrial grouping or supporting the major industrial group and that is described in paragraphs (A),(B) or (C) of this subsection. For the purposes of this subsection, a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.
(A) A major source of hazardous air pollutants, which means:
(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutants that has been listed pursuant to OAR 340-244-0040; 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
(ii) For radionuclides, "major source" will have the meaning specified by the Administrator by rule.
(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit 100 tpy or more of any regulated air pollutant, including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source are not considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:
(i) Coal cleaning plants (with thermal dryers);
(ii) Kraft pulp mills;
(iii) Portland cement plants;
(iv) Primary zinc smelters;
(v) Iron and steel mills;
(vi) Primary aluminum ore reduction plants;
(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 50 tons of refuse per day;
(ix) Hydrofluoric, sulfuric, or nitric acid plants;
(x) Petroleum refineries;
(xi) Lime plants;
(xii) Phosphate rock processing plants;
(xiii) Coke oven batteries;
(xiv) Sulfur recovery plants;
(xv) Carbon black plants(furnace process);
(xvi) Primary lead smelters;
(xvii) Fuel conversion plants;
(xviii) Sintering plants;
(xix) Secondary metal production plants;
(xx) Chemical process plants;
(xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(xxiii) Taconite ore processing plants;
(xxiv) Glass fiber processing plants;
(xxv) Charcoal production plants;
(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
(xxvii) Any other stationary source category, that as of August 7, 1980 is being regulated under section 111 or 112 of the Act.
(C) A major stationary source as defined in part D of Title I of the Act, including:
(i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides do not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of VOCs;
(iii) For carbon monoxide nonattainment areas:
(I) That are classified as "serious"; and
(II) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide.
(iv) For particulate matter(PM10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM10.
(6~~8~~9) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process.
(~~69~~70) "Modification," except as used in the term "major modification," means any physical change to, or change in the method of operation of, a stationary source that results in an increase

in the stationary source's potential to emit any regulated air pollutant on an hourly basis. Modifications do not include the following:
(a) Increases in hours of operation or production rates that do not involve a physical change or change in the method of operation;
(b) Changes in the method of operation due to using an alternative fuel or raw material that the stationary source was physically capable of accommodating during the baseline period; and
(c) Routine maintenance, repair and like-for-like replacement of components unless they increase the expected life of the stationary source by using component upgrades that would not otherwise be necessary for the stationary source to function.
(7~~0~~1) "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance with an emission limitation or standard (such as records of raw material content and usage, or records documenting compliance with work practice requirements). Monitoring may include conducting compliance method tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis. Requirements to conduct such tests on a one-time basis, or at such times as a regulatory authority may require on a non-regular basis, are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques as appropriate for a particular circumstance:
(a) Continuous emission or opacity monitoring systems.
(b) Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.
(c) Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).
(d) Maintaining and analyzing records of fuel or raw materials usage.
(e) Recording results of a program or protocol to conduct specific operation and maintenance procedures.
(f) Verifying emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.
(g) Visible emission observations and recording.
(h) Any other form of measuring, recording, or verifying on a routine basis emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.
(7~~1~~2) "Netting Basis" means the baseline emission rate MINUS any emission reductions required by rule, orders, or permit conditions required by the SIP or used to avoid SIP requirements, MINUS any unassigned emissions that are reduced from allowable under OAR 340-222-0045, MINUS any emission reduction credits transferred off site, PLUS any emission increases approved through the New Source Review regulations.
(a) With the first permitting action for a source after July 1, 2002, the baseline emissions rate will be frozen for all pollutants required to have a baseline emission rate other than PM2.5 and recalculated only if:
(A) A better emission factor is established for the baseline period and approved by the Department;
(B) A currently operating emissions unit that the Department formerly thought had negligible emissions, is determined to have non-de minimis emissions and needs to be added to the baseline emission rate; or

(C) A new pollutant is added to the regulated pollutant list (e.g., PM2.5). For a pollutant that is newly regulated after 11/15/90, the initial netting basis is the actual emissions during the baseline period defined for that pollutant; or any 12 consecutive month period within the 24 months immediately preceding its designation as a regulated pollutant if a baseline period is not defined for the pollutant. The Department may allow a prior 12 consecutive month time period to be used if it is shown to be more representative of normal source operation.
(b) The baseline emission rate and netting basis for PM2.5 will be established for a source with the first permitting action involving a public notice after September 1, 2010. The baseline emission rate for PM2.5 will be frozen with the permit action involving a public notice that is five years or more after the baseline emission rate is established and recalculated only as specified in (a)(A) and (B).
(~~b~~c) Netting basis is zero for:
(A) any source constructed after the baseline period and has not undergone New Source Review;
(B) Any pollutant that has a generic PSEL in a permit;
(C) Any source permitted as portable; and
(D) Any source with a netting basis calculation resulting in a negative number.
(~~c~~d) If a source relocates to an adjacent site, and the time between operation at the old and new sites is less than six months, the source may retain the netting basis from the old site.
(~~d~~e) Emission reductions required by rule, order, or permit condition affect the netting basis if the source currently has devices or emissions units that are subject to the rules, order, or permit condition. The baseline emission rate is not affected.
(~~e~~f) Netting basis for a pollutant with a revised definition will be adjusted if the source is emitting the pollutant at the time of redefining and the pollutant is included in the permit's netting basis.
(~~f~~g) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis will be established at no more than the level used in the dispersion modeling to demonstrate attainment with the ambient air quality standard (i.e., the attainment demonstration is an emission reduction required by rule).
(7~~2~~3) "Nitrogen Oxides" or "NOx" means all oxides of nitrogen except nitrous oxide.
(7~~3~~4) "Nonattainment Area" means a geographical area of the State, as designated by the Environmental Quality Commission or the EPA, that exceeds any state or federal primary or secondary ambient air quality standard.
(7~~4~~5) "Nonattainment Pollutant" means a pollutant for which an area is designated a nonattainment area.
(7~~5~~6) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.
(7~~6~~7) "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a proposed major source or major modification of an existing source.
(7~~7~~8) "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 OAR 340-212-0120 and 212-0140. Unless otherwise specified by rule, opacity shall be measured in accordance with EPA Method 9 or a continuous opacity monitoring system (COMS) installed and operated in accordance with the Department's Continuous Monitoring Manual. For all standards, the minimum observation period shall 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 equal or exceed the opacity percentage in the standard, whether or not the readings are consecutive.

(7~~8~~9) "Oregon Title V Operating Permit" means any permit covering an Oregon Title V Operating Permit source that is issued, renewed, amended, or revised pursuant to division 218.

(~~79~~80) "Oregon Title V Operating Permit program" means a program approved by the Administrator under 40 CFR Part 70.

(8~~0~~1) "Oregon Title V Operating Permit program source" means any source subject to the permitting requirements, OAR 340 division 218.

(8~~1~~2) "Ozone Season" means the contiguous 3 month period during which ozone exceedances typically occur (i.e., June, July, and August).

(8~~2~~3) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air. When used in emission standards, particulate matter is defined by the method specified within the standard or by an applicable reference method in accordance with OAR 340-212-0120 and 340-212-0140. Unless otherwise specified, 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 shall be tested with DEQ Method 7; indirect heat transfer combustion sources and all other non-fugitive emissions sources not listed above shall be tested with DEQ Method 5.

(8~~3~~4) "Permit" means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.

(8~~4~~5) "Permit modification" means a permit revision that meets the applicable requirements of OAR 340 division 216, 340 division 224, or 340-218-0160 through 340-218-0180.

(8~~5~~6) "Permit revision" means any permit modification or administrative permit amendment.

(8~~6~~7) "Permitted Emissions" as used in OAR division 220 means each regulated pollutant portion of the PSEL, as identified in an ACDP, Oregon Title V Operating Permit, review report, or by the Department pursuant to OAR 340-220-0090.

(8~~7~~8) "Permittee" means the owner or operator of the facility, authorized by the ACDP or the Oregon Title V Operating Permit to operate the source.

(8~~8~~9) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.

(~~8~~90) "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one permitted emission.

(9~~0~~1) "PM10":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual(January, 1992);

(b) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with 40 CFR Part 50, Appendix J.

(9~~1~~2) "PM2.5":

(a) Proior to January 1, 2011,~~When used in the context of~~ direct PM2.5 emissions~~,~~ means finely divided filterable~~solid or liquid~~ material, ~~including condensable particulate, other than~~

~~uncombined water,~~ with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air ~~as measured by conditional test method CTM-040 (EPA Emission Measurement Center) and a reference method based on 40 CFR Part 52, Appendix M~~.

(b) On or after January 1, 2011, direct PM2.5 emissions means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air.

(c) When used in the context of PM2.5 precursor emissions, means sulfur dioxide (SO2) and nitrogen oxides (NOx) emitted to the ambient air as measured by an EPA reference method in 40 CFR Part 60, appendix A.

(~~b~~d) When used in the context of ambient concentration, means particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50, Appendix L, or an equivalent method designated in accordance with 40 CFR Part 53.

(9~~2~~3) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated air pollutant.

(9~~3~~4) "Potential to emit" or "PTE" means the lesser of:

(a) The capacity of a stationary source; or

(b) The maximum allowable emissions taking into consideration any physical or operational limitation, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation is enforceable by the Administrator.

(c) This definition does not alter or affect the use of this term for any other purposes under the Act or the term "capacity factor" as used in Title IV of the Act and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.

(9~~4~~5) "Predictive emission monitoring system (PEMS)" means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

(9~~5~~6) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(9~~6~~7) "Proposed permit" means the version of an Oregon Title V Operating Permit that the Department or a Regional Agency proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.

(9~~7~~8) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 60, 61 or 63.

(9~~8~~9) "Regional Agency" means Lane Regional Air Protection Agency.

(~~99~~100) "Regulated air pollutant" or "Regulated Pollutant":

(a) Except as provided in subsections (b) and(c) of this rule, means:

(A) Nitrogen oxides or any VOCs;

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(E) Any pollutant listed under OAR 340-244-0040 or 340-244-0230.

(b) As used in OAR 340 division 220, regulated pollutant means particulates, volatile organic compounds, oxides of nitrogen and sulfur dioxide.

(c) As used in OAR 340 division 224 any pollutant listed under OAR 340-244-0040 or 340-244-0230 is not a regulated pollutant.

(10~~0~~1) "Renewal" means the process by which a permit is reissued at the end of its term.

(10~~1~~2) "Responsible official" means one of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(B) The delegation of authority to such representative is approved in advance by the Department or Lane Regional Air Protection Agency.

(b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this Division, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency(e.g., a Regional Administrator of the EPA); or

(d) For affected sources:

(A) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated there under are concerned; and

(B) The designated representative for any other purposes under the Oregon Title V Operating Permit program.

(10~~2~~3) "Secondary Emissions" means emissions that are a result of the construction and/or operation of a source or modification, but that do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships and trains coming to or from a facility;

(b) Emissions from off-site support facilities that would be constructed or would otherwise increase emissions as a result of the construction or modification of a source.

(10~~3~~4) "Section 111" means section 111 of the FCAA which includes Standards of Performance for New Stationary Sources (NSPS).

(10~~4~~5) "Section 111(d)" means subsection 111(d) of the FCAA which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.

(10~~5~~6) "Section 112" means section 112 of the FCAA which contains regulations for Hazardous Air Pollutants (HAP).

(10~~6~~7) "Section 112(b)" means subsection 112(b) of the FCAA which includes the list of hazardous air pollutants to be regulated.

(10~~7~~8) "Section 112(d)" means subsection 112(d) of the FCAA which directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.

(1089) "Section 112(e)" means subsection 112(e) of the FCAA which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.
(1109) "Section 112(r)(7)" means subsection 112(r)(7) of the FCAA which requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.
(1101) "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA which requires enhanced monitoring and submission of compliance certifications for major sources.
(1112) "Section 129" means section 129 of the FCAA which requires the EPA to establish emission standards and other requirements for solid waste incineration units.
(1123) "Section 129(e)" means subsection 129(e) of the FCAA which requires solid waste incineration units to obtain Oregon Title V Operating Permits.
(1134) "Section 182(f)" means subsection 182(f) of the FCAA which requires states to include plan provisions in the State Implementation Plan for NOx in ozone nonattainment areas.
(1145) "Section 182(f)(1)" means subsection 182(f)(1) of the FCAA which requires states to apply those plan provisions developed for major VOC sources and major NOx sources in ozone nonattainment areas.
(1156) "Section 183(e)" means subsection 183(e) of the FCAA which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.
(1167) "Section 183(f)" means subsection 182(f) of the FCAA which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.
(1178) "Section 184" means section 184 of the FCAA which contains regulations for the control of interstate ozone air pollution.
(1189) "Section 302" means section 302 of the FCAA which contains definitions for general and administrative purposes in the Act.
(11920) "Section 302(j)" means subsection 302(j) of the FCAA which contains definitions of "major stationary source" and "major emitting facility."
(1201) "Section 328" means section 328 of the FCAA which contains regulations for air pollution from outer continental shelf activities.
(1212) "Section 408(a)" means subsection 408(a) of the FCAA which contains regulations for the Title IV permit program.
(1223) "Section 502(b)(10) change" means a change which contravenes an express permit term but is not a change that:
(a) Would violate applicable requirements;
(b) Would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or
(c) Is a Title I modification.
(1234) "Section 504(b)" means subsection 504(b) of the FCAA which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.
(1245) "Section 504(e)" means subsection 504(e) of the FCAA which contains regulations for permit requirements for temporary sources.
(1256) "Significant Air Quality Impact" means an additional ambient air quality concentration equal to or greater than in the concentrations listed in Table 1. The threshold concentrations listed in Table 1 are used for comparison against the ambient air quality standard and do not apply for protecting PSD Class I increments or air quality related values (including visibility).

For sources of VOC or NOx, a major source or major modification has a significant impact if it is located within the Ozone Precursor Distance defined in OAR 340-225-0020.

(12~~6~~7) "Significant Emission Rate" or "SER," except as provided in subsections(a) through(c) of this section, means an emission rate equal to or greater than the rates specified in Table 2.

(a) For the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rate for PM10 is defined in Table 3.

(b) For regulated air pollutants not listed in Table 2 or 3, the significant emission rate is zero unless the Department determines the rate that constitutes a significant emission rate.

(c) Any new source or modification with an emissions increase less than the rates specified in Table 2 or 3 associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m3 (24 hour average) is emitting at a significant emission rate.

(12~~7~~8) "Significant Impairment" occurs when the Department determines that visibility impairment interferes with the management, protection, preservation, or enjoyment of the visual experience within a Class I area. The Department will make this determination on a case-by-case basis after considering the recommendations of the Federal Land Manager and the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered along with visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(12~~8~~9) "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all pollutant emitting activities that belong to a single major industrial group (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987) or that support the major industrial group.

(1~~2~~9~~3~~0) "Source category":

(a) Except as provided in subsection(b) of this section, means all the pollutant emitting activities that belong to the same industrial grouping(i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987).

(b) As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that the Department determines are using similar raw materials and have equivalent process controls and pollution control equipment.

(13~~0~~1) "Source Test" means the average of at least three test runs conducted in accordance with the Department's Source Sampling Manual.

(13~~1~~2) "Startup" and "shutdown" means that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively.

(13~~2~~3) "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the Commission under OAR 340-200-0040 and approved by EPA.

(13~~3~~4) "Stationary source" means any building, structure, facility, or installation at a source that emits or may emit any regulated air pollutant.

(13~~4~~5) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.

(1356) "Synthetic minor source" means a source that would be classified as a major source under OAR 340-200-0020, but for limits on its potential to emit air pollutants contained in a permit issued by the Department under OAR 340 division 216 or 218.

(1367) "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:

(a) A major modification subject to OAR 340-224-0050, Requirements for Sources in Nonattainment Areas;

(b) A major modification subject to OAR 340-224-0060, Requirements for Sources in Maintenance Areas;

(c) A major modification subject to OAR 340-224-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas;

(d) A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or

(e) A modification under Section 112 of the FCAA.

(1378) "Total Reduced Sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide(H2S).

(1389) "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit in accordance with OAR 340-226-0130. For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. TACT determinations will be based on information known to the Department while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control equipment. The Department may consider emission control technologies typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

(13940) "Unassigned Emissions" means the amount of emissions that are in excess of the PSEL but less than the Netting Basis.

(1401) "Unavoidable" or "could not be avoided" means events that are not caused entirely or in part by poor or inadequate design, operation, maintenance, or any other preventable condition in either process or control equipment.

(1412) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment that may cause excess emissions.

(1423) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

(1434) "Volatile Organic Compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

(a) This includes any such organic compound except the following, which have been determined to have negligible photochemical reactivity in the formation of tropospheric ozone: methane; ethane; methylene chloride(dichloromethane); dimethyl carbonate; 1,1,1-trichloroethane(methyl

chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane(CFC-113); trichlorofluoromethane(CFC-11); dichlorodifluoromethane(CFC-12); chlorodifluoromethane(HCFC-22); trifluoromethane(HFC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane(CFC-115); 1,1,1-trifluoro 2,2-dichloroethane(HCFC-123); 1,1,1,2-tetrafluoroethane(HFC-134a); 1,1-dichloro 1-fluoroethane(HCFC-141b); 1-chloro 1,1-difluoroethane(HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane(HCFC-124); pentafluoroethane(HFC-125); 1,1,2,2-tetrafluoroethane(HFC-134); 1,1,1-trifluoroethane(HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride(PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene(tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane(HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane HFC 43-10mee); difluoromethane(HFC-32); ethylfluoride(HFC-161); 1,1,1,3,3,3-hexafluoropropane(HFC-236fa); 1,1,2,2,3-pentafluoropropane(HFC-245ca); 1,1,2,3,3-pentafluoropropane(HFC-245ea); 1,1,1,2,3-pentafluoropropane(HFC-245eb); 1,1,1,3,3-pentafluoropropane(HFC-245fa); 1,1,1,2,3,3-hexafluoropropane(HFC-236ea); 1,1,1,3,3-pentafluorobutane(HFC-365mfc); chlorofluoromethane (HCFC-31); 1 chloro-1-fluoroethane(HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane(HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane(C4F9OCH3 or HFE-7100); 2-(difluoromethoxy?methyl)-1,1,1,2,3,3,3-heptafluoropropane((CF3)2CFCF2OCH3); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane(C4F9OC2H5 or HFE-7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OC2H5); methyl acetate; 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane(n-C3F7OCH3, HFE-7000); 3-ethoxy-1,1,1,2,3, 4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane(HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane(HFC 227ea); methyl formate (HCOOCH3); (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane(HFE-7300); and perfluorocarbon compounds that fall into these classes:
(A) Cyclic, branched, or linear, completely fluorinated alkanes;
(B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
(C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
(D) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in accordance with the Department's Source Sampling Manual, January, 1992. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and the Department approves the exclusion.
(c) The Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the Department's satisfaction, the amount of negligibly-reactive compounds in the source's emissions.
(d) The following compound(s) are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and must be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.
(1445) "Year" means any consecutive 12 month period of time.

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

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

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025

DIVISION 200 - TABLES

Last revised by EQC on 5/4/01

TABLE 1

OAR 340-200-0020

SIGNIFICANT AMBIENT AIR QUALITY IMPACT WHICH IS EQUAL TO OR GREATER THAN:

Pollutant	Averaging Time	Air Quality Area Designation		
		Class I	Class II	Class III
SO_2 (µg/m^3)	Annual	0.10	1.0	1.6
	24-hour	0.20	5.0	7.3
	3-hour	1.0	25.0	28
PM_{10} (µg/m^3)	Annual	0.20	0.2	0.2
	24-hour	0.30	1.0	2.4
$PM_{2.5}$ (µg/m^3)	Annual	0.04	0.2	0.2
	24-hour	0.08	1.0	1.0
NO_2 (µg/m^3)	Annual	0.10	1.0	1.0
CO (mg/m^3)	8 hour	---	0.5	0.5
	1-hour	---	2.0	2.0

~~**TABLE 1**~~

~~**OAR 340-200-0020**~~

~~**SIGNIFICANT AMBIENT AIR QUALITY IMPACT WHICH IS EQUAL TO OR GREATER THAN:**~~

~~*Pollutant*~~	~~*Pollutant Averaging Time*~~				
-	~~*Annual*~~	~~*24-Hour*~~	~~*8-Hour*~~	~~*3-Hour*~~	~~*1-Hour*~~
~~SO_2~~	~~1.0 µgmicrograms/m^3~~	~~5 µgmicrograms/m^3~~	~~--~~	~~25 µgmicrograms/m^3~~	~~--~~
~~PM_{10}~~	~~0.2 µgmicrograms/m^3~~	~~1.0 µgmicrograms/m^3~~	~~--~~	~~--~~	~~--~~

NO_2	1.0 µgmicrograms/m^3	–	–	–	–
CO	–	–	0.5 milligramsmg/m^3	–	2 milligramsmg/m^3

Table 2

OAR 340-200-0020

SIGNIFICANT EMISSION RATES FOR POLLUTANTS REGULATED UNDER THE CLEAN AIR ACT

~~***Significant***~~ ***Pollutant***	***Emission Rate***
Carbon Monoxide	100 tons/year
Nitrogen Oxides (NO_X)	40 tons/year
Particulate Matter	25 tons/year
PM_{10}	15 tons/year
Direct $PM_{2.5}$	10 tons/year
$PM_{2.5}$ precursors (SO_2 or NO_x)	40 tons/year
Sulfur Dioxide (SO_2)	40 tons/year
Volatile Organic Compounds (VOC)	40 tons/year
Ozone precursors (VOC or NO_x)	40 ton/year
Lead	0.6 ton/year
Fluorides	3 tons/year
Sulfuric Acid Mist	7 tons/year
Hydrogen Sulfide	10 tons/year
Total Reduced Sulfur (including hydrogen sulfide)	10 tons/year
Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035 ton/year
Municipal waste combustor metals (measured as particulate matter)	15 tons/year
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40 tons/year

Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tons/year

Table 3

OAR 340-200-0020

SIGNIFICANT EMISSION RATES FOR THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA

Air Contaminant	*Emission Rate*	
	Annual	*Day*
PM_{10}/$PM_{2.5}$	4,500 Kilograms (5.0 tons)	23 Kilograms (50.0 lbs.)

Table 4 from OAR 340-200-0020(31):

Pollutant	De minimis (tons/year, except as noted)
CO	1
NO_x	1
SO_2	1
VOC	1
PM	1
PM_{10} (except Medford AQMA)	1
PM_{10} (Medford AQMA)	0.5 [5.0 lbs/day]
Direct $PM_{2.5}$	1
Lead	0.1
Fluorides	0.3
Sulfuric Acid Mist	0.7
Hydrogen Sulfide	1
Total Reduced Sulfur (including hydrogen sulfide)	1
Reduced Sulfur	1
Municipal waste combustor organics (Dioxin and furans)	0.0000005
Municipal waste combustor metals	1
Municipal waste combustor acid gases	1
Municipal solid waste landfill gases	1
Single HAP	1
Combined HAP (aggregate)	1

Table 5 from OAR 340-200-0020(567):

Pollutant	Generic PSEL (tons/year, except as noted)
CO	99
NO_x	39
SO_2	39
VOC	39
PM	24
PM_{10} (except Medford AQMA)	14
PM_{10} (Medford AQMA)	4.5 [49 lbs/day]
Direct $PM_{2.5}$	9
Lead	0.5
Fluorides	2
Sulfuric Acid Mist	6
Hydrogen Sulfide	9
Total Reduced Sulfur (including hydrogen sulfide)	9
Reduced Sulfur	9
Municipal waste combustor organics (Dioxin and furans)	0.0000030
Municipal waste combustor metals	14
Municipal waste combustor acid gases	39
Municipal solid waste landfill gases	49
Single HAP	9
Combined HAPs (aggregate)	24

The Oregon Administrative Rules contain OARs filed through May 14, 2010

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 202

AMBIENT AIR QUALITY STANDARDS AND PSD INCREMENTS

[**NOTE:** Administrative Order DEQ 37 repealed previous OAR 340-031-0005 through 340-031-0020 (DEQ 5 and 6).]

340-202-0210

Ambient Air Increments

(1) This rule defines significant deterioration. In areas designated as Class I, II or III, emissions from new or modified sources must be limited such that increases in pollutant concentration over the baseline concentration defined in Division 225 must be limited to those set out in **Table 1**.
(2) For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

[**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.]

~~[ED. NOTE: The Table referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]~~

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 18-1979, f. & ef. 6-22-79; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

Table 1

(OAR 340-202-0210) MAXIMUM ALLOWABLE INCREASE Micrograms per cubic meter	
CLASS I	
Pollutant	*Micrograms per cubic meter*
Particulate matter:	
PM10, Annual arithmetic mean	4
PM10, 24-hour maximum	8
PM2.5, Annual arithmetic mean	1
PM2.5, 24-hour maximum	3
Sulfur dioxide:	
Annual arithmetic mean	2
24-hour maximum	5
3-hour maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II	
Pollutant	*Micrograms per cubic meter*
Particulate matter:	
PM10, Annual arithmetic mean	17
PM10, 24-hour maximum	30
PM2.5, Annual arithmetic mean	4
PM2.5, 24-hour maximum	9
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512

Nitrogen dioxide: Annual arithmetic mean	25
Class III	
Pollutant	*Micrograms per cubic meter*
Particulate matter: PM10, Annual arithmetic mean PM10, 24-hour maximum PM2.5, Annual arithmetic mean PM2.5, 24-hour maximum	 34 60 8 18
Sulfur dioxide: Annual arithmetic mean 24-hour maximum 3-hour maximum	 40 182 700
Nitrogen dioxide: Annual arithmetic mean	 50

[print version]

For more information about **Air Quality** call 503-229-5359 or e-mail.

Oregon Department of Environmental Quality
Headquarters: 811 Sixth Ave., Portland, OR 97204-1390
Phone: 503-229-5696 or toll free in Oregon 1-800-452-4011
Oregon Telecommunications Relay Service: 1-800-735-2900 FAX: 503-229-6124

The Oregon Administrative Rules contain OARs filed through May 14, 2010

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 216

AIR CONTAMINANT DISCHARGE PERMITS

340-216-0020
Applicability
This division applies to all sources referred to in Table 1. This division also applies to Oregon Title V Operating Permit program sources when an ACDP is required by OAR 340-218-0020 or 340-224-0010. Sources referred to in **Table 1** are subject to fees as set forth in **Table 2**.
(1) No person may construct, install, establish, develop or operate any air contaminant source which is referred to in Table 1 without first obtaining an Air Contaminant Discharge Permit (ACDP) from the Department or Regional Authority, unless otherwise deferred from the requirement to obtain an ACDP in subsection (1)(c) or (d) of this rule. No person may continue to operate an air contaminant source if the ACDP expires, or is terminated or revoked; except as provided in OAR 340-216-0082.
(a) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both the Department and Regional Authorities.
(b) The Department or Regional Authority where the portable source's Corporate offices are located will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, the Department will be responsible for issuing the permit.
(c) An air contaminant source required to obtain an ACDP or ACDP Attachment pursuant to a NESHAP or NSPS adopted by the Commission by rule is not required to submit an application for an ACDP or ACDP Attachment until four months after the effective date of the Commission's adoption of the NESHAP or NSPS, and is not required to obtain an ACDP or ACDP Attachment until six months after the Commission's adoption of the NESHAP or NSPS. In addition, the Department may defer the requirement to submit an application for, or to obtain an ACDP or ACDP Attachment, or both, for up to an additional twelve~~six~~ months.
(d) Gasoline dispensing facilities are not required to submit an application for an ACDP or ACDP Attachment until May 1, 2010 or obtain an ACDP or ACDP attachment until June 1, 2010. The Department may defer the requirement to submit an application for, or to obtain an ACDP or ACDP Attachment, or both, for up to an additional six months.
(e) Deferrals of Oregon permitting requirements do not relieve an air contaminant source from the responsibility of complying with federal NESHAP or NSPS requirements.
(2) No person may construct, install, establish, or develop any source that will be subject to the Oregon Title V Operating Permit program without first obtaining an ACDP from the Department or Regional Authority.
(3) No person may modify any source that has been issued an ACDP without first complying with the requirements of OAR 340-210-0205 through 340-210-0250.
(4) No person may modify any source required to have an ACDP such that the source becomes subject to the Oregon Title V Operating Permit program without complying with the requirements of OAR 340-210-0205 through 340-210-0250.
(5) No person may increase emissions above the PSEL by more than the de minimis levels specified in OAR 340-200-0020 without first applying for and obtaining a modified ACDP.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-211-0040.

~~[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of tables.]~~

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1994, f. & cert. ef. 10-4-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 7-2007, f. & cert. ef. 10-18-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10

The Oregon Administrative Rules contain OARs filed through May 14, 2010

DIVISION 224

MAJOR NEW SOURCE REVIEW

340-224-0010

Applicability and General Prohibitions

(1) Within designated Nonattainment and Maintenance areas, this division applies to owners and operators of proposed major sources and major modifications of air contaminant sources. Within attainment and unclassifiable areas, this division applies to owners and operators of proposed Federal Major sources and major modifications at Federal Major sources. This division does not apply to owners or operators of proposed non-major sources or non-major modifications. Such owners or operators are subject to other Department rules, including Highest and Best Practicable Treatment and Control Required (OAR 340-226-0100 through 340-226-0140), Notice of Construction and Approval of Plans (340-210-0205 through 340-210-0250), ACDPs (OAR 340 division 216), Emission Standards for Hazardous Air Contaminants (OAR 340 division 244), and Standards of Performance for New Stationary Sources (OAR 340 division 238).
(2) No owner or operator may begin construction of a major source or a major modification of an air contaminant source without having received an air contaminant discharge permit (ACDP) from the Department and having satisfied the requirements of this division.
(3) Unless and until the PM10 Surrogate Policy established in the EPA guidance document entitled ‘‘Interim Implementation for the New Source Review Requirements for PM2.5’’ (John S. Seitz, EPA, October 23, 1997) is withdrawn, an owner or operator seeking approval to construct a major source or major modification may still rely upon the PM10 surrogate policy as provided in Section 4 below as long as the following conditions are met:
(a) The appropriateness of the PM10-based assessment for determining PM2.5 compliance has been adequately demonstrated based on the specifics of the project; and
(b) The owner or operator can show that a PM2.5 analysis is not technically feasible.
(4) An owner or operator relying on the PM 10 Surrogate Policy is not required to submit a PM2.5-based analysis to demonstrate compliance with the PM2.5 standards as otherwise provided in OAR 340-225.

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

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0220; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ

26-1996, f. & cert. ef. 11-26-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1900; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 1-2004, f.& cert. ef. 4-14-04

340-224-0050

Requirements for Sources in Nonattainment Areas

Proposed major sources and major modifications that would emit a nonattainment pollutant within a designated nonattainment area, including VOC or NOx in a designated Ozone Nonattainment Area and SO2 or NOx in a designated PM2.5 Nonattainment Area must meet the requirements listed below:
(1) Lowest Achievable Emission Rate (LAER). The owner or operator must demonstrate that the source or modification will comply with ~~the~~ LAER for each nonattainment pollutant and precursor(s) emitted at or above the significant emission rate (SER).
(a) For a major modification, the requirement for LAER applies only to each emissions unit that emits the pollutant in question and was installed since the baseline period or the most recent New Source Review construction approval for that pollutant, and to each modified emission unit that increases actual emissions of the pollutant in question above the netting basis.
(b) For phased construction projects, the LAER determination must be reviewed at the latest reasonable time before commencing construction of each independent phase.
(c) When determining LAER for a change that was made at a source before the current NSR application, the Department will consider technical feasibility of retrofitting required controls provided:
(A) The change was made in compliance with NSR requirements in effect when the change was made, and
(B) No limit will be relaxed that was previously relied on to avoid NSR.
(d) Individual modifications with potential to emit less than 10 percent of the SER are exempt from this section unless:
(A) They are not constructed yet;
(B) They are part of a discrete, identifiable, larger project that was constructed within the previous 5 years and is equal to or greater than 10 percent of the SER; or
(C) they were constructed without, or in violation of, the Department's approval.
(2) Offsets and Net Air Quality Benefit. The owner or operator must obtain offsets and demonstrate that a net air quality benefit will be achieved as specified in OAR 340-225-0090.
(3) Additional Requirements for Federal Major Sources:
(a) The owner or operator of a source that emits or has the potential to emit 100 tons per year of any regulated NSR pollutant must evaluate alternative sites, sizes, production processes, and environmental control techniques for the proposed source or modification and demonstrate that benefits of the proposed source or modification will significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.
(b) The owner or operator of a source that emits or has the potential to emit 100 tons per year of any regulated NSR pollutant must demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in

the state are in compliance, or are on a schedule for compliance, with all applicable emission limitations and standards under the Act.
(c) The owner or operator of a federal major source must meet the visibility impact requirements in OAR 340-225-0070.

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

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0240; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef.1-25-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1930; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 3-2007, f. & cert. ef. 4-12-07

340-224-0070

Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas

Proposed new federal major sources or major modifications at federal major sources locating in areas designated attainment or unclassifiable must meet the following requirements:
(1) Best Available Control Technology (BACT). The owner or operator of the proposed major source or major modification must apply BACT for each pollutant emitted at a SER over the netting basis. In the Medford-Ashland AQMA, the owner or operator of any proposed new Federal Major PM10 source, or proposed major modification of a Federal Major PM10 source must comply with the LAER emission control technology requirement in 340-224-0050(1), and is exempt from the BACT provision of this section.
(a) For a major modification, the requirement for BACT applies only to:
(A) Each new emissions unit that emits the pollutant in question and was installed since the baseline period or the most recent New Source Review construction approval for that pollutant and
(B) Each modified emissions unit that increases the actual emissions of the pollutant in question above the netting basis.
(b) For phased construction projects, the BACT determination must be reviewed at the latest reasonable time before commencement of construction of each independent phase.
(c) When determining BACT for a change that was made at a source before the current NSR application, any additional cost of retrofitting required controls may be considered provided:
(A) The change was made in compliance with NSR requirements in effect at the time the change was made, and
(B) No limit is being relaxed that was previously relied on to avoid NSR.
(d) Individual modifications with potential to emit less than 10 percent of the significant emission rate are exempt from this section unless:

(A) They are not constructed yet;
(B) They are part of a discrete, identifiable larger project that was constructed within the previous 5 years and that is equal to or greater than 10 percent of the significant emission rate; or
(C) They were constructed without, or in violation of, the Department's approval.
(2) Air Quality Analysis: The owner of operator of a source subject to this rule must provide an analysis of the air quality impacts for the proposed source or modification in accordance with OAR 340-225-0050 through 340-225-0070. The owner or operator of any source subject to this rule that significantly affects 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).
(5) The owner or operator of a source subject to this rule and significantly impacting a PM2.5 nonattainment area (significant air quality impact is defined in OAR 340-200-0020) must comply with the requirements of 340-224-0050(2).

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040]

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

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 14-1985, f. & ef. 10-16-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 27-1992, f. & cert. ef. 11-12-92; Section (8) Renumbered from 340-020-0241; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0245; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1940; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2004, f.& cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05

The Oregon Administrative Rules contain OARs filed through May 14, 2010

DIVISION 225

AIR QUALITY ANALYSIS REQUIREMENTS

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 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. If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for 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 major source or major 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.
(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. See 66 Federal Register 2, January 3, 2001 at 382 to 383.
(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 μg/m3 (24-hour average) and 21 μg/m3 (annual average).
(b) The future year (2015) concentrations for the Klamath Falls UGB are 114 μg/m3 (24-hour average) and 25 μg/m3 (annual average).
(c) The future year (2025) concentrations for the Lakeview UGB are 126 μg/m3 (24-hour average) and 27 μg/m3 (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 NH4NO3 is 0.3500 times the weight of NH4NO3 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 NOx 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 km
(B) For sources with complete permit applications submitted on or after January 1, 2003: D = (Q/40) x 30 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 NOx 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 minus (40/30 * SD))
(B) Contributing sources may provide offsets (PO) calculated as follows: PO = CQ 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 NOx 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 NOx 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 NOx in the designated area during high ozone conditions. The modeled reductions of ambient VOC or NOx 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 NOx 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 not included. See ED. NOTE.]~~

(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 Class II 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.

~~[ED. NOTE: Tables referenced are available from the agency.]~~

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-6-03; Administrative correction 11-10-03; DEQ 1-2004, f.& cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 9-2005, f. & cert. ef. 9-9-05

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) A single source impact analysis is sufficient to show compliance with standards, PSD increments, and limits if modeled impacts from the source being evaluated are less than the Class II Significant Air Quality Impact levels specified in OAR 340-200-0020, Table 1 for all maintenance pollutants.
(2) If the above requirement 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.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A, 468A.025 & 468A.035
Hist.: DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2005, f. & cert. ef. 1-4-05

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) A single source impact analysis is sufficient to show compliance with standards and increments if modeled impacts from the source being evaluated are less than the Class II Significant Air Quality Impact levels specified in OAR 340-200-0020, Table 1 for all pollutants.
(2) If the above requirement 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) PM2.5; 10 ug/m^3, 24 hour average;
(~~i~~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;
(~~vii~~ix) Total reduced sulfur; 10 ug/m3, 1 hour average;
(~~i~~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.

~~[ED. NOTE: Tables referenced are available from the agency.]~~

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

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2004, f.& cert. ef. 4-14-04

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) A single source impact analysis will be sufficient to show compliance with increments if modeled impacts from the source being evaluated are demonstrated to be less than the Class I impact levels specified in OAR 340-200-0020 Table I ~~below~~. ~~[Table not printed. See Ed. Note.]~~
(b) If the above requirement 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) A single source impact analysis will be sufficient to show compliance with standards if modeled impacts from the source being evaluated are demonstrated to be less than the Class II impact levels specified in OAR 340-200-0020, Table 1 for all pollutants.
(d) If the requirement of (2)(a) 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.

~~[ED. NOTE: Table referenced in this rule are available from the agency.]~~

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02

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 NOx emissions). For sources capable of impacting a designated ozone nonattainment or maintenance area;
(a) Offsets for VOC and NOx 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 NOx offsets relating to ozone formation.
(e) Sources within or affecting the Salem Ozone Maintenance Area are exempt from the requirement for VOC and NOx offsets relating to ozone formation.
(2) Non-Ozone areas (PM2.5, PM10, SO2, CO, NOx, and Lead emissions)
(a) For a source locating within a designated nonattainment area, the owner or operator must:
(A) Obtain offsets from within the same designated nonattainment area;
(B) Provide a minimum of 1:1 offsets for emission increases over the Netting Basis or;
(C) For PM2.5 precursor emissions increases over the Netting Basis, provide a minimum of 40:1 (SO2:Direct PM2.5) for offsets for SO2 or 1:40 (Direct PM2.5:SO2).
(~~C~~D) Provide a net air quality benefit within the designated nonattainment area. "Net Air Quality Benefit" means a reduction in concentration at a majority of the modeled receptors and less than a significant impact level increase at all modeled receptors;
(~~D~~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.
(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 240-200-0020) 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.
(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 a reduction in concentration at a majority of the modeled receptors and less than a significant impact level increase at all modeled receptors.
(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 240-200-0020) at all receptors within the AQMA.
(3) Except as provided below, ~~T~~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. In PM2.5 nonattainment areas, the following offsets are allowed for SO2, NOx and direct PM2.5:
(a) SO2 may be used to offset direct PM2.5 at a ratio of 40:1;
(b) Direct PM2.5 may be used to offset SO2 at a ratio of 1:40.
(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 Department 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.

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

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0260; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1970; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0111; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-224-0090 & 340-240-0260; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-6-03; Administrative correction 11-10-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 3-2007, f. & cert. ef. 4-12-07

State of Oregon Department of Environmental Quality

Tables for Division 225, Air Quality Analysis Review
www.deq.state.or.us/regulations/rules.htm

Table (340-225-0020)

K is a constant defined by pollutant

Pollutant	$PM_{2.5}$/PM_{10}	SO_x	NO_x	CO	Lead
K	5	5	10	40	0.15

Table (340-225-0030)

Averaging times by pollutant

PM_{10}	24 hours, annual
Sulfur Oxides	3 hour, 24 hours, annual
Nitrogen Oxides	annual
Carbon Monoxide	1 hour, 8 hours, annual
Lead	annual quarterly, annual

~~Table 1 (340-225-0060)~~ - - - -

~~Significant Impact Levels for PSD Class I Areas~~ - - -

~~Pollutant~~	~~Averaging Time~~	~~PSD Class I Significant Impact Level~~
~~PM_{10}~~	~~24 hour~~	~~0.30 µg/m^3~~
~~PM_{10}~~	~~Annual~~	~~0.20 µg/m^3~~
~~SO_2~~	~~3 hour~~	~~1.0 µg/m^3~~
~~SO_2~~	~~24 hour~~	~~0.20 µg/m^3~~
~~SO_2~~	~~Annual~~	~~0.10 µg/m^3~~
~~NO_2~~	~~Annual~~	~~0.10 µg/m^3~~

SUMMARY OF RULE CHANGES

Rule	Description of change	Reason/basis
Division 200		
0020(3)(c)	Renumbered (3)(a)(C) to (3)(b)	This change makes the rule consistent with the rules prior to 2001. The numbering had accidentally been changed during the 2001 rulemaking. A qualifier is added to (c) to ensure that the actual emissions may equal the potential emission only when a source is allowed to construct and operate during the specified period. This provision would apply to sources that were permitted during the baseline period, but had not begun operations, but mainly applies to new and modified sources that go through NSR.
0020(14) "Baseline Period"	Add baseline period for PM2.5.	For PM2.5, 2006 or 2007 was selected because the final PM2.5 24-hour NAAQS was promulgated in 2006. Going back to 1977 or 1978 is not realistic.
0020(29) "Criteria Pollutant"	Add direct PM2.5 to the list of criteria pollutants	Direct PM2.5 is defined in the definition of PM2.5. SO2 and NOx are PM2.5 precursors, the same as VOC and NOx are ozone precursors.
0020(34) Direct PM2.5	Add definition of direct PM2.5	This is necessary for determining NSR applicability. Direct PM2.5 or PM2.5 precursors can make a source subject to NSR for PM2.5.
0020(56)	Delete Editorial Note about table	The SOS will be including tables along with the rules.
0020 (92) PM2.5	Add separate definitions for <u>direct</u> PM2.5 and PM2.5 precursors as emitted from stationary sources.	This is necessary for determining NSR applicability. Direct PM2.5 or PM2.5 precursors can make a source subject to NSR for PM2.5.
0020	Delete Editorial Note about table	The SOS will be including tables along with the rules.
Table 1 SIL	Add PM2.5 SIL	EPA proposed a range of 0.06 to 0.2 for the annual SIL. Our PM10 SIL is more stringent than EPA's and almost all sources cannot get below the PM10 SIL. It is expected that the same will be true for PM2.5 if the level is set at 0.2, as well. Final rule should include EPA level if it is less than 0.2. EPA proposed a range of 0.24 to 1 for the 24-hour SIL. The PM10 SIL is 1.0, which should be used for PM2.5 for the same reason as the annual SIL.
Table 2 SER	Add SER for PM2.5 and precursors	Levels are based on EPA proposed rules. Since Medford is not classified as PM2.5 nonattainment area, we do not recommend a lower SER even though that means that the SER will be lower for PM10 than PM2.5.
Table 5 Generic PSEL	Add generic PSEL for PM2.5	The Generic PSEL for PM2.5 is based on proposed SER minus de minimis level.
Division 202		
0210(1)	Added reference to Division 225	This is a clarification.
0210	Delete Editorial Note about table	The SOS will be including tables along with the rules.

SUMMARY OF RULE CHANGES

Rule	Description of change	Reason/basis
Table1, PSD increments	Add PM2.5 PSD increments	The increments are based on the lowest value proposed by EPA in Sept. 2007.
Division 216		
0020(1)(c)	Change 6 months to 12 months for deferral of application submittal for NESHAP or NSPS sources	To reduce the burden of processing and issuing permits on DEQ staff
0020	Delete Editorial Note about table	The SOS will be including tables along with the rules.
Division 224		
0050	Add PM2.5 precursors	PM2.5 precursors have to be addressed in nonattainment areas.
0050(1)	Add precursors to the list of pollutants subject to LAER	LAER applies to non-attainment pollutants, as well as the precursors.
0070(5)	Add offsets and net air quality benefit for sources impacting a PM2.5 nonattainment area	This provision ensures that source outside of nonattainment areas do not adversely impact the nonattainment area.
Division 225		
0020(3)(e)	Add baseline concentration year for PM2.5	2007 was chosen because that is the year that the PM2.5 PSD increment was proposed by EPA. This approach is consistent with the NOx baseline concentration year.
0020(12)	Delete Editorial Note about table	The SOS will be including tables along with the rules.
0020(13)	Add Class II to the Source Impact Area definition.	All Significant Impact Levels for Class I, II and III areas are being combined into one table in Division 200.
0020	Delete Editorial Note about table	The SOS will be including tables along with the rules.
0045(1)	Add Class II to the requirement for a single source impact analysis	All Significant Impact Levels for Class I, II and III areas are being combined into one table in Division 200.
0050(1)	Add Class II to the requirement for a single source impact analysis	All Significant Impact Levels for Class I, II and III areas are being combined into one table in Division 200.
0050(4)(a)(C)(iv)	Add significant monitoring concentration for PM2.5	We need to determine a value based on how the other values were established, if possible. Recommendation is to use the same rationale as for PM10. The PM10 SMC was set at 5 times the minimum detection limit of the reference method. It is assumed that the minimum detection limit is the same for PM2.5 as PM10, so the SMC is 10 for both PM2.5 and PM10.
0050	Delete Editorial Note about table	The SOS will be including tables along with the rules.
0060(2)(a)	Add Class I to the requirement for a single source impact analysis.	All Significant Impact Levels for Class I, II and III areas are being combined into one table in Division 200.
0060(2)(a)	Delete Editorial Note about table	The SOS will be including tables along with the rules.
0060(2)(c)	Add Class II to the requirement for a single source impact analysis.	All Significant Impact Levels for Class I, II and III areas are being combined into one table in Division 200.
0060	Delete Editorial Note about table	The SOS will be including tables along with

SUMMARY OF RULE CHANGES

Rule	Description of change	Reason/basis
		the rules.
0090(2)(a)(C)	Added offset ratios for PM2.5 precursors	This offset ratios are based the presumptive levels established by EPA in the preamble to Significant Impact Levels (SILs)
0090(3)	Added offset ratios for PM2.5 precursors	This offset ratios are based the presumptive levels established by EPA in the preamble to Significant Impact Levels (SILs)
Table 225-0020	Add K for PM2.5	K is a pollutant specific constant for determining the range of influence of a competing source.
Table 225-0060	Delete Table 1	Class I Significant Impact Levels are being added to Table I in Division 200

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July 16, 2010

BY EMAIL (Inahara.Jill@deq.state.or.us) AND FACSIMILE (503-229-5675)

Jill Inahara
Oregon DEQ, Air Quality Division
811 SW Sixth Ave.
Portland, OR 97204

Re: Comments on Proposed Emergency $PM_{2.5}$ Regulations

Dear Ms. Inahara:

By way of introduction, ATI Wah Chang and ATI Albany Operations (formerly Oremet) currently employ over 1,000 union and administrative employees in the highly unemployed and economically hard hit Linn county area. We are writing out of our concern that the proposed emergency $PM_{2.5}$ regulations will cause additional hardships to our company's on-going efforts to recover from the recent economic recession.

I would like to open by saying that we are concerned regarding the Department's increased use of its emergency rulemaking authority. We believe that this authority should be used extremely sparingly and that it would be an abuse of process to routinely exercise this authority instead of engaging in proper notice and comment rulemaking. We believe that this sort of opportunity for comment is nowhere more important than in relation to changes to a bedrock program such as Oregon's new source review program. Most of the changes proposed are narrow in scope and will serve to bridge the permitting gap between now and when DEQ can complete notice and comment rulemaking. However, we are concerned that certain changes are unnecessarily restrictive and, therefore, not appropriate for an emergency rule. With that overview of our position, I present our specific comments below.

Baseline Period (OAR 340-200-0020(14))

One of the most significant changes proposed for the emergency rules is the proposal to establish the baseline year for $PM_{2.5}$ as 2006 or 2007. We recognize that for some industrial sectors the years 2006 and 2007 represent normal, pre-recession operations. However, the specialty metals industry tends to trail into recession and consequently, for our companies 2008 is a significantly more representative year. We see no basis for setting 2006 and 2007 as the default baseline years with no opportunity to rely upon a more recent year. We understand that the Department may want to use a year prior to 2010. However, we see no reason not to allow the use of any year between 1997 and 2009 (inclusive) so long as the source commits to the year and does not change once the year is elected.

$PM_{2.5}$ Precursor Baseline

The Department is proposing to create a new requirement for $PM_{2.5}$ precursors (NOx and SO_2), but it is proposing to retain the baseline emission rate as pre-1978 for those precursor pollutants. We encourage the Department to consider including an option for sources to establish a separate $PM_{2.5}$ precursor, if the source chooses, based on actual emissions during the chosen $PM_{2.5}$ baseline year. This should be an option, not mandatory. However, providing this flexibility will match $PM_{2.5}$ regulation better with Oregon's new source review program.

Baseline Freeze (OAR 340-200-0020(72)(b))

The Department is also proposing to require that $PM_{2.5}$ baseline emission rates be established as part of the first permit action after September 1, 2010 and frozen at the second permit action after September 1, 2010. We believe that this requirement is too stringent. Oregon sources are just beginning to get a sense of their $PM_{2.5}$ emissions and emission sources. While we do not believe that it is unreasonable to require that $PM_{2.5}$ baselines be established expeditiously, we do believe that freezing those baselines at the second permit action is extreme. Under this approach, a Title V source seeking an administrative amendment or an ACDP source seeking a minor change to its permit could trigger the $PM_{2.5}$ baseline freeze. We see no reason to rush this process, particularly in the context of an emergency rule. We recommend that baselines not be frozen until a source has had at least one complete permit cycle of experience with the newly regulated pollutant.

$PM_{2.5}$ Significant Impact Level (SIL)

We support the proposed choice of SILs for $PM_{2.5}$. We recognize that while EPA has not finalized the $PM_{2.5}$ SIL, it is to both the Department's and sources' benefit to have SILs defined pending EPA choosing a final value. We believe that the proposed values, which represent the upper end of the range proposed by EPA, are appropriate for the emergency rule.

$PM_{2.5}$ Baseline for Sources Permitted Prior to Rule Adoption

We strongly urge DEQ to adopt a transition component to the rule that avoids penalizing sources that were initially permitted or their permits were modified prior to adoption of the $PM_{2.5}$ rules. A source that was permitted in 2008 and that emits 15 tons of $PM_{2.5}$ would be forced to undergo major new source review and potential have to add significant additional controls and provide offsets (in a nonattainment area) based on an increase in PSEL as small as 1 ton per year. We believe that this will severely hamper economic growth and penalize sources that were legitimately permitted after the baseline period but before there was an ability to establish a $PM_{2.5}$ baseline. Therefore, we urge the Department to afford those sources relief and allow sources permitted before the rule adoption but that had not commenced operation by the start of the most recent baseline year, to establish baseline equal to the permitted emission rate.

$PM_{2.5}$ Increment (Division 202; Table 1)

Although EPA has not adopted $PM_{2.5}$ increments, and has specifically stated that no $PM_{2.5}$ analysis is required unless and until EPA adopts $PM_{2.5}$ increments, the Department has proposed to adopt the most stringent increment that EPA proposed. In its March 23, 2010 guidance, EPA expressly stated that $PM_{2.5}$ increment modeling is not required until EPA decides to adopt an increment value. As DEQ cannot determine what increment EPA will ultimately adopt, and no increment exists at this time, DEQ should not arbitrarily adopt an increment that is the lowest in a range of values under consideration by EPA. This is true in any context, but particularly in the context of an emergency rule. We encourage DEQ to remove the $PM_{2.5}$ increment from the proposed emergency rule.

Thank you for the opportunity to comment.

Very truly yours,

Lee Weber, Director
Environmental Services

ROSEBURG

July 16, 2010

BY EMAIL (Inahara.Jill@deq.state.or.us) AND FACSIMILE (503-229-5675)

Jill Inahara
Oregon DEQ, Air Quality Division
811 SW Sixth Ave.
Portland, OR 97204

Re: Comments on Proposed Emergency $PM_{2.5}$ Regulations

Dear Ms. Inahara:

I represent Roseburg Forest Products (RFP), a longstanding wood products company based in Roseburg, Oregon. RFP operates 5 facilities in Oregon and employees approximately 2,400 people within this state. As involved, supporting members of the communities in which we operate, RFP is conscientious in our efforts to protect the environment. In addition to our concern about the environment, RFP is mindful of the costs of doing business and how the ever-increasing costs of production affects our ability to maintain our employee base. Additionally, since we are a major employer in each of the areas in which we operate, numerous direct and indirect service providers also rely on our success. RFP would like to stress that continual increased stringency on environmental regulations, especially during these tough economic times, places a heavy burden on our operations and places increased risk on our ability to operate and keep people employed.

Due to the significant impact the emergency PM 2.5 rulemaking could have on our business, we offer the following comments.

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Baseline Period (OAR 340-200-0020(14))

One of the most significant and concerning changes proposed in the emergency rules is the proposal to establish the baseline year for $PM_{2.5}$ as 2006 or 2007. We recognize that for some industrial sectors the years 2006 and 2007 represent normal, pre-recession operations. However, those circumstances may or may not apply to either a particular company or individual facility within that company. We see no basis for setting 2006 and 2007 as the default baseline years with no opportunity to rely upon a prior or more recent year. For a company like RFP that has operated in Oregon for 75 years, establishing a new baseline on a year that happens to be in the midst of one of the worst economic downturns will result in a monumental negative impact. Accordingly, we see no reason not to allow the use of any year between 1997 and 2009 (inclusive) so long as the source commits to the year and does not change once the year is elected.

$PM_{2.5}$ Precursor Baseline

The Department is proposing to create a new requirement for $PM_{2.5}$ precursors (NOx and SO_2), but it is proposing to retain the baseline emission rate as pre-1978 for those precursor pollutants. We encourage the Department to consider including an option for sources to establish a separate $PM_{2.5}$ precursor, if the source chooses, based on actual emissions during the chosen $PM_{2.5}$ baseline year. This should be an option, not mandatory. However, providing this flexibility will match $PM_{2.5}$ regulation better with Oregon's new source review program.

Baseline Freeze (OAR 340-200-0020(72)(b))

The Department is also proposing to require that $PM_{2.5}$ baseline emission rates be established as part of the first permit action after September 1, 2010 and frozen at the second permit action after September 1, 2010. We believe that this requirement is too stringent. Oregon sources are just beginning to get a sense of their $PM_{2.5}$ emissions and emission sources. While we do not believe that it is unreasonable to require that $PM_{2.5}$ baselines be established expeditiously, we do believe that freezing those baselines at the second permit action is extreme. Under this approach, a Title V source seeking an administrative amendment or an ACDP source seeking a minor change to its permit could trigger the $PM_{2.5}$ baseline freeze. We see no reason to rush this process, particularly in the context of an emergency rule. We recommend that baselines not be frozen until a source has had at least one complete permit cycle of experience with the newly regulated pollutant.

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$PM_{2.5}$ Significant Impact Level (SIL)

We support the proposed choice of SILs for $PM_{2.5}$. We recognize that while EPA has not finalized the $PM_{2.5}$ SIL, it is to both the Department's and sources' benefit to have SILs defined pending EPA choosing a final value. We believe that the proposed values, which represent the upper end of the range proposed by EPA, are appropriate for the emergency rule.

$PM_{2.5}$ Baseline for Sources Permitted Prior to Rule Adoption

We strongly urge DEQ to adopt a transition component to the rule that avoids penalizing sources that were initially permitted or their permits were modified prior to adoption of the $PM_{2.5}$ rules. A source that was permitted in 2008 and that emits 15 tons of $PM_{2.5}$ would be forced to undergo major new source review and potentially have to add significant additional controls and provide offsets (in a nonattainment area) based on an increase in PSEL as small as 1 ton per year. We believe that this will severely hamper economic growth and penalize sources that were legitimately permitted after the baseline period but before there was an ability to establish a $PM_{2.5}$ baseline. Therefore, we urge the Department to afford those sources relief and allow sources permitted before the rule adoption but that had not commenced operation by the start of the most recent baseline year, to establish baseline equal to the permitted emission rate.

$PM_{2.5}$ Increment (Division 202; Table 1)

Although EPA has not adopted $PM_{2.5}$ increments, and has specifically stated that no $PM_{2.5}$ analysis is required unless and until EPA adopts $PM_{2.5}$ increments, the Department has proposed to adopt the most stringent increment that EPA proposed. In its March 23, 2010 guidance, EPA expressly stated that $PM_{2.5}$ increment modeling is not required until EPA decides to adopt an increment value. As DEQ cannot determine what increment EPA will ultimately adopt, and no increment exists at this time, DEQ should not arbitrarily adopt an increment that is the lowest in a range of values under consideration by EPA. This is true in any context, but particularly in the context of an emergency rule. We encourage DEQ to remove the $PM_{2.5}$ increment from the proposed emergency rule.

Finally, I would like to convey that we are concerned regarding the Department's increased use of its emergency rulemaking authority. We believe that this authority should be used

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extremely sparingly and that it would be an abuse of process to routinely exercise this authority instead of engaging in proper notice and comment rulemaking. We believe that this sort of opportunity for comment is nowhere more important than in relation to changes to a bedrock program such as Oregon's new source review program. Most of the changes proposed are narrow in scope and will serve to bridge the permitting gap between now and when DEQ can complete notice and comment rulemaking. However, we are concerned that certain changes are unnecessarily restrictive and, therefore, not appropriate for an emergency rule.

Thank you for the opportunity to comment.

Sincerely,

Ellen Porter
Manager, Environmental Affairs
Roseburg Forest Products

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INAHARA Jill

From: DeVore, Ted [TDeVore@COLLINSCO.COM]
Sent: Monday, July 19, 2010 3:11 PM
To: INAHARA Jill

Jill,

I would really like to say that I fully understand the proposed temporary PM2.5 rule but with what I heard today I have some major concerns. Today's meeting about the draft rules DEQ stated that under the proposed rules a source could trigger PSD for PM2.5 without ever exceeding its PM2.5 PSEL. It was explained that this could occur if there was a difference of 10 tons per year or more between the PM2.5 baseline emission rate and the PM2.5 PSEL. As explained, any physical change at the plant that resulted in the need for an increased PSEL would then trigger PSD. Oregon has a long and proud tradition of excluding changes from PSD when they can be accommodated under a PSEL. This has encouraged sources to decrease emissions knowing that they could benefit the environment in a manner that does not damage the company's potential for future growth. The PM2.5 emergency rule would cut against that long established approach by preventing a source from being able to add or replace equipment with limited permitting consequences so long as the source maintained emissions below the PSELs. The change being proposed would severely undercut the longstanding Oregon PSEL program and make it very difficult for businesses in the state to justify equipment replacement or the addition of new manufacturing equipment. For this reason I urge DEQ to specify that a major modification does not occur so long as the source does not exceed the PM2.5 PSEL established by this rule regardless of whether emissions are due to the use of existing capacity or the addition of new capacity.

Hopefully I can provide more comprehensive feedback as I learn more about what the Department is trying to accomplish here.

Sincerely,

Ted DeVore
Plant environmental Manager
Collins Products, LLC
6410 Highway 66
Klamath Falls, Oregon 97601

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INAHARA Jill

From: Lee Fortier [lfortier@roguedisposal.com]
Sent: Monday, July 19, 2010 4:00 PM
To: INAHARA Jill
Subject: DEQ Proposed Emergency PM2.5 Rules

Hello Jill,

These comments are offered regarding the Proposed Emergency PM2.5 Rules.

1. DEQ says that they are going for an emergency rule because they need to deal with the issues that will arise when EPA withdraws its PM2.5 surrogacy policy. However, EPA has not yet withdrawn the surrogacy policy. It would seem to make sense to consider making the emergency rules take effect only upon withdrawal of the EPA surrogacy policy. Given that EPA could take months before withdrawing the surrogacy policy, it makes no sense to adopt emergency rules unless there is a provision in those rules saying that they do not take effect unless and until EPA withdraws its surrogacy policy.
2. DEQ is proposing to establish a PM2.5 baseline emission rate based on actual emissions in 2006 or 2007, unless a prior year is more representative. We object to this arbitrary year selection, as our landfill gas-to-energy plant came online in mid-2007, with 2008 being it first full operating year. We would like to choose 2008 or 2009 as our baseline year.

Sincerely, Lee

Lee Fortier, P.E.
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July 19, 2010

BY EMAIL (Inahara.Jill@deq.state.or.us)
AND
FACSIMILE (503-229-5675)

Ms. Jill Inahara
Oregon DEQ, Air Quality Division
811 SW Sixth Avenue
Portland, OR 97204

Subject: Comments on Proposed Emergency $PM_{2.5}$ Regulations

Dear Ms. Inahara:

Associated Oregon Industries (AOI) is Oregon's largest, statewide, comprehensive business association with more than 1,600 member companies employing 200,000 Oregonians. AOI also represents Oregon's largest group of manufactures to be affected by the proposed emergency rule and is the state affiliate of the National Association of Manufactures.

We appreciate this opportunity to informally comment on the proposed emergency rules that would add $PM_{2.5}$ requirements to DEQ's regulations. AOI has enjoyed a longstanding cooperative and productive working relationship with the Department and we offer these comments in that spirit.

Process

Although parts of this proposal clearly merit the use of emergency rulemaking, AOI is very concerned about the increasing use of this authority. Emergency rulemaking should be used sparingly and only in cases where it is necessary and justified if we are to avoid a perceived abuse of process. The opportunity for comment on a new proposed rule is nowhere more important than in this case which deals with changes to Oregon's new source review requirements, a bedrock program. Consequently, AOI urges the Department to omit, as noted, some of the proposal from the emergency rule and, if warranted, propose it using regular procedures.

Effective Date of Rule

AOI urges the Department to make the effective date of the emergency rule the date that EPA withdraws its 1997 PM_{10} Surrogate Policy. DEQ has repeatedly stated that the reason for proceeding with the emergency rule is that the agency staff believe that upon withdrawal of the Surrogate Policy that the DEQ rules could be interpreted to apply a 0 ton significant emission rate for $PM_{2.5}$. However, to date EPA has not withdrawn that policy and it is unclear when they will do so. AOI does not object to DEQ creating a contingency plan in the event that EPA does indeed withdraw its surrogate policy prior to DEQ being able to complete formal rulemaking. However, AOI does not believe it makes sense for emergency rulemaking to take effect in advance of there being any emergency. Therefore, AOI urges DEQ to make the effective date of the emergency rules be the date that EPA formally withdraws the surrogate policy.

Baseline Period (OAR 340-200-0020(14))

One of the most significant changes proposed for the emergency rules is the proposal to establish the baseline year for $PM_{2.5}$ as 2006 or 2007. We recognize that for some industrial sectors the years 2006 and 2007 represent normal, pre-recession operations. However, other companies trail into recession and for them, 2008 is a more representative year. We see no basis for setting 2006 and 2007 as the default baseline years with no opportunity to rely upon a more recent year. We understand that the Department may want to use a twelve month period ending prior to adoption of the emergency rule. However, we see no reason not to allow the use of any year between 1997 and the date the emeregency rule is adopted so long as the source commits to the year and does not change once the year is elected.

PSEL Netting

At the meeting earlier today Mark Fisher explained that under the proposed rules a source could trigger PSD for $PM_{2.5}$ without ever exceeding its $PM_{2.5}$ PSEL. It was explained that this could occur if there was a difference of 10 tons per year or more between the $PM_{2.5}$ baseline emission rate and the $PM_{2.5}$ PSEL. As explained, any physical change at the plant that resulted in the need for an increased PSEL would then trigger PSD. Oregon has a long and proud tradition of excluding changes from PSD when they can be accommodated under a PSEL. This has encouraged sources to decrease emissions knowing that they could benefit the environment in a manner that does not damage the company's potential for future growth. The $PM_{2.5}$ emergency rule would cut against that long established approach by preventing a source from being able to add or replace equipment with limited permitting consequences so long as the source maintained emissions below the PSELs. The change being proposed would severely undercut the longstanding Oregon PSEL program and make it very difficult for businesses in the state to justify equipment replacement or the addition of new manufacturing equipment. For this reason

AOI urges DEQ to specify that a major modification does not occur so long as the source does not exceed the $PM_{2.5}$ PSEL established by this rule regardless of whether emissions are due to the use of existing capacity or the addition of new capacity

$PM_{2.5}$ Precursor Baseline

The Department is proposing to create a new requirement for $PM_{2.5}$ precursors (NOx and SO_2), but it is proposing to retain the baseline emission rate as pre-1978 for those precursor pollutants. We encourage the Department to consider including an option for sources to establish a separate $PM_{2.5}$ precursor, if the source chooses, based on actual emissions during the chosen $PM_{2.5}$ baseline year. This should be an option, not mandatory. However, providing this flexibility will match $PM_{2.5}$ regulation better with Oregon's new source review program.

Baseline Freeze (OAR 340-200-0020(72)(b))

The Department is also proposing to require that $PM_{2.5}$ baseline emission rates be established as part of the first permit action after September 1, 2010 and frozen at the second permit action after September 1, 2010. We believe that this requirement is too stringent. Oregon sources are just beginning to get a sense of their $PM_{2.5}$ emissions and emission sources. While we do not believe that it is unreasonable to require that $PM_{2.5}$ baselines be established expeditiously, we do believe that freezing those baselines at the second permit action is extreme. Under this approach, a Title V source seeking an administrative amendment or an ACDP source seeking a minor change to its permit could trigger the $PM_{2.5}$ baseline freeze. We see no reason to rush this process, particularly in the context of an emergency rule. We recommend that baselines not be frozen until a source has had at least one complete permit cycle of experience with the newly regulated pollutant.

$PM_{2.5}$ Significant Impact Level (SIL)

We support the proposed choice of SILs for $PM_{2.5}$. We recognize that while EPA has not finalized the $PM_{2.5}$ SIL, it is to both the Department's and sources' benefit to have SILs defined pending EPA choosing a final value. We believe that the proposed values, which represent the upper end of the range proposed by EPA, are appropriate for the emergency rule.

$PM_{2.5}$ Baseline for Sources Permitted Prior to Rule Adoption

We strongly urge DEQ to adopt a transition component to the rule that avoids penalizing sources that were initially permitted or their permits were modified prior to adoption of the $PM_{2.5}$ rules. A source that was permitted in 2008 and that emits 15 tons of $PM_{2.5}$ would be forced to undergo major new source review and potentially have to add significant additional controls and provide

offsets (in a nonattainment area) based on an increase in PSEL as small as 1 ton per year. We believe that this will severely hamper economic growth and penalize sources that were legitimately permitted after the baseline period, but before there was an ability to establish a $PM_{2.5}$ baseline. Therefore, we urge the Department to afford those sources relief and allow sources permitted before the rule adoption, but that had not commenced operation by the start of the most recent baseline year, to establish baseline equal to the permitted emission rate.

$PM_{2.5}$ Increment (Division 202; Table 1)

Although EPA has not adopted $PM_{2.5}$ increments, and has specifically stated that no $PM_{2.5}$ analysis is required unless and until EPA adopts $PM_{2.5}$ increments, the Department has proposed to adopt the most stringent increment that EPA proposed. In its March 23, 2010 guidance, EPA expressly stated that $PM_{2.5}$ increment modeling is not required until EPA decides to adopt an increment value. As DEQ cannot determine what increment EPA will ultimately adopt, and no increment exists at this time, DEQ should not arbitrarily adopt an increment that is the lowest in a range of values under consideration by EPA. This is true in any context, but particularly in the context of an emergency rule. We encourage DEQ to remove the $PM_{2.5}$ increment from the proposed emergency rule.

Thank you for the opportunity to comment.

Sincerely,

John Ledger
Vice President

cc: Tom Wood, Stoel Rives LLP

Northwest Pulp & Paper Association
7900 S.E. 28th Street, Suite 304
Mercer Island, WA 98040
(206) 414-7290, Fax (206) 414-7297

July 19, 2010

BY EMAIL (Inahara.Jill@deq.state.or.us)

Jill Inahara
Oregon DEQ, Air Quality Division
811 SW Sixth Ave.
Portland, OR 97204

RE: NWPPA Comments on Proposed August 2010 Emergency $PM_{2.5}$ Rulemaking

Dear Ms. Inahara:

Thank you for the opportunity to provide public comment on the Department's proposed emergency air quality rulemaking on particulate matter.

The Northwest Pulp and Paper Association or "NWPPA" is a 54 year-old trade association representing pulp and/or paper mills in the Pacific Northwest on environmental issues that affect mill operations. NWPPA and our member companies are firm believers in collaborative involvement with state agencies to achieve improved environmental performance and improved air and water quality. NWPPA members hold air operating permits affected by this emergency rulemaking.

Please accept these comments on behalf of our Oregon members including: Boise Inc., Blue Heron Paper Company, Cascade Pacific Pulp, Georgia Pacific, International Paper and SP Newsprint. NWPPA also supports comments submitted by Oregon Forest Industries Council, Associated Oregon Industries and our member companies.

NWPPA COMMENTS

Policy Comments

1. NWPPA is gravely concerned with the recent increase in the number of emergency rulemakings held by the Department of Environmental Quality.

Discussion: There are appropriate venues under the Oregon administrative procedures act and Department policies on public participation that allow for robust stakeholder participation. Emergency rulemaking is not a participatory option; rather it excludes participation by interested parties by its very nature.

2. NWPPA appreciates the stakeholder meeting held on July 19, 2010; however, NWPPA finds that stakeholder outreach was lacking and asks the Department to reconsider their outreach policies to the regulated community regarding emergency rulemakings.

3. NWPPA finds some aspects of this proposed rulemaking to be inappropriate for an emergency rulemaking – when the US EPA has not yet adopted final regulations. DEQ should not trigger and implement Oregon rules without EPA final action.

4. NWPPA objects to the policy path outlined in this proposed rulemaking for situations at facilities, that would change long-standing PSD determination precedents, via changing plant site emission limit (PSEL) regulations for $PM_{2.5}$.

Discussion: NWPPA verbally objected on July 19th to this policy path and does so again in these written comments. NWPPA does not believe it is appropriate to trigger PSD for $PM_{2.5}$ without ever exceeding a $PM_{2.5}$ PSEL. NWPPA strongly objects to the intended proposed policy path of changing the definition of major modification -- such that PSD could be triggered as the result of physical facility changes that could be accommodated under the PSEL established by the rule. NWPPA sees no environmental benefit to removing this flexibility from the Oregon program and requests additional dialogue with the department to address any problems the Department sees in the current Oregon policy approach for PSELs.

Specific Comments

Surrogacy Policy Removal Trigger

5. NWPPA asks the Department to change the proposed emergency rule so it takes effect only when the EPA withdraws their $PM_{2.5}$ surrogacy policy.

Discussion: NWPPA believes the proposed rule should only take effect upon a surrogacy policy withdrawal action by EPA.

$PM_{2.5}$ Increment (Division 202; Table 1)

6. NWPPA asks that the Department remove the $PM_{2.5}$ increment from the proposed emergency rule.

Discussion: NWPPA does not believe DEQ should adopt a PM 2.5 increment until EPA adopts final regulations as referenced in NWPPA policy Comment Number 3. In EPA's March 23, 2010 guidance, EPA states that $PM_{2.5}$ increment modeling is not required until EPA adopts an increment value.

Baseline Period (OAR 340-200-0020(14))

7. NWPPA asks the Department to allow the permit holder to choose a baseline year reflective of their operations between 1997 and up to and including 2010.

Discussion: The recession has had varying effects on industrial production levels and this fact should be acknowledged with a flexible approach to setting the baseline year.

$PM_{2.5}$ Precursor Baseline

8. NWPPA suggests the Department consider a flexible option to their precursor baseline approach including an option for sources to establish a separate $PM_{2.5}$ precursor, if the source chooses, based on actual emissions during the chosen $PM_{2.5}$ baseline year.

Discussion: The Department is proposing to create a new requirement for $PM_{2.5}$ precursors (NOx and SO_2), but it is proposing to retain the baseline emission rate as pre-1978 for those precursor pollutants. NWPPA suggests the Department consider a flexible approach that allows a facility to access their situation and respond accordingly. NWPPA requests further dialogue with the Department on the matter of when PSD is triggered for SO_2.

Baseline Freeze (OAR 340-200-0020(72)(b))

9. NWPPA believes the baseline freeze requirement is too stringent. NWPPA recommend that baselines not be frozen until a source has at least one complete permit cycle of experience with the newly regulated pollutant.

Discussion: The Department's proposal is unwarranted for an emergency rule. A proposal to require that $PM_{2.5}$ baseline emission rates be established as part of the first permit action after September 1, 2010 and frozen at the second permit action after September 1, 2010 is unwarranted given the regulatory uncertainty that exists in fall 2010. Minor permits modifications could trigger an unanticipated freeze.

$PM_{2.5}$ Significant Impact Level (SIL)

10. NWPPA supports the proposed choice of SILs for $PM_{2.5}$.

Discussion: NWPPA recognizes that EPA has not finalized the $PM_{2.5}$ SIL, but we understand why the Department has chosen this approach. We believe that the proposed values are appropriate value range for the emergency rule. NWPPA fully supports the Department efforts to make Oregon's air programs functional with evolving federal standards.

$PM_{2.5}$ Baseline for Sources Permitted Prior to Rule Adoption

11. NWPPA suggests DEQ adopt a transition component to the rule that avoids penalizing sources that were initially permitted or their permits were modified prior to adoption of the $PM_{2.5}$ rules.

Discussion: As NWPPA discussed in the July 19th stakeholder meeting, we urge flexibility in implementing the $PM_{2.5}$ regulations that allows Oregon business time to plan and react to multiple EPA regulations including upcoming Boiler Maximum Achievable Control Technology (MACT). The timing of this proposal could catch some sources in a regulatory conundrum.

In summary, NWPPA has suggested specific changes with the goal of program improvement and we request further dialogue with the Department on the matter of a holistic approach to upcoming EPA air regulations facing the pulp and paper industry.

Thank you for the opportunity to comment. I can be contacted at 503-844-9540 to answer any questions.

Sincerely,

|Kathryn VanNatta
Governmental Affairs Manager
Northwest Pulp and Paper Association

Blue Heron Paper Company

419 Main Street, Oregon City, Oregon 97045

July 19, 2010

BY EMAIL (Inahara.Jill@deq.state.or.us) AND FACSIMILE (503-229-5675)

Jill Inahara
Oregon DEQ, Air Quality Division
811 SW Sixth Ave.
Portland, OR 97204

Re: Comments on Proposed Emergency $PM_{2.5}$ Regulations

Dear Ms. Inahara:

Blue Heron Paper Company (BHPC) appreciates the opportunity to comment on the Department of Environmental Quality (DEQ) proposed emergency $PM_{2.5}$ Regulations.

Blue Heron Paper Company was founded in May 2000 when a group of employees working for Smurfit Newsprint Corporation in Oregon City purchased the mill. At Blue Heron, we recycle old newspapers and magazines from homes and businesses and we turn it into new paper. The mill operates under a Title V Air Operating permit based on baseline years 1977/1978.

I would like to open by saying that we are concerned regarding the Department's increased use of its emergency rulemaking authority. We believe that this authority should be used extremely sparingly and that it would be an abuse of process to routinely exercise this authority instead of engaging in proper notice and comment rulemaking. We believe that this sort of opportunity for comment is nowhere more important than in relation to changes to a bedrock program such as Oregon's new source review program.

We support the addition of a provision in these emergency rules saying that they take effect only upon withdrawal of the EPA PM_{10} surrogate policy; or in other words that they do not take effect unless and until EPA withdraws its PM_{10} surrogate policy.

Most of the changes proposed are narrow in scope and will serve to bridge the permitting gap between now and when DEQ can complete notice and comment rulemaking. However, we are concerned that certain changes are unnecessarily restrictive and, therefore, not appropriate for an emergency rule. With that overview of our position, I present our specific comments below.

<u>Baseline Period (OAR 340-200-0020(14))</u>

One of the most significant changes proposed for the emergency rules is the proposal to establish the baseline year for $PM_{2.5}$ as 2006 or 2007. We recognize that for some industrial sectors the

years 2006 and 2007 represent normal, pre-recession operations. However, for our company there have been a number of lean years that have kept us from normal operations. We believe that the most representative time period would be to allow us to determine $PM_{2.5}$ baseline emissions using the same time period as our other baseline determinations (1978). This would allow us to be consistent across all pollutants and minimize the likelihood of confusion.

$PM_{2.5}$ Precursor Baseline

The Department is proposing to create a new requirement for $PM_{2.5}$ precursors (NOx and SO_2), but it is proposing to retain the baseline year as 1978 for those precursor pollutants. We encourage the Department to consider including an option for sources to establish a separate $PM_{2.5}$ precursor, if the source chooses, based on actual emissions during the chosen $PM_{2.5}$ baseline year. This should be an option, not mandatory. However, providing this flexibility will match $PM_{2.5}$ regulation better with Oregon's new source review program.

Baseline Freeze (OAR 340-200-0020(72)(b))

The Department is also proposing to require that $PM_{2.5}$ baseline emission rates be established as part of the first permit action after September 1, 2010 and frozen at the second permit action after September 1, 2010. We believe that this requirement is too stringent. Oregon sources are just beginning to get a sense of their $PM_{2.5}$ emissions and emission sources. While we do not believe that it is unreasonable to require that $PM_{2.5}$ baselines be established expeditiously, we do believe that freezing those baselines at the second permit action is extreme. Under this approach, a Title V source seeking an administrative amendment or an ACDP source seeking a minor change to its permit could trigger the $PM_{2.5}$ baseline freeze. We see no reason to rush this process, particularly in the context of an emergency rule. We recommend that baselines not be frozen until a source has had at least one complete permit cycle of experience with the newly regulated pollutant.

$PM_{2.5}$ Significant Impact Level (SIL)

We support the proposed choice of SILs for $PM_{2.5}$. We recognize that while EPA has not finalized the $PM_{2.5}$ SIL, it is to both the Department's and sources' benefit to have SILs defined pending EPA choosing a final value. We believe that the proposed values, which represent the upper end of the range proposed by EPA, are appropriate for the emergency rule. However, we wish to reiterate what we stated at the outset of this letter. Specifically, the Department should not adopt a SIL unless and until the EPA surrogate rule is revoked.

Existing PSEL program

At its July 19th meeting about the draft, emergency rules DEQ stated that under the proposed rules a source could trigger PSD for $PM_{2.5}$ without ever exceeding its $PM_{2.5}$ PSEL. It was explained that this could occur if there was a difference of 10 tons per year or more between the $PM_{2.5}$ baseline emission rate and the $PM_{2.5}$ PSEL. As explained, any physical change at the plant that resulted in the need for an increased PSEL would then trigger PSD. Oregon has a long and proud tradition of excluding changes from PSD when they can be accommodated under a PSEL. This has

encouraged sources to decrease emissions knowing that they could benefit the environment in a manner that does not damage the company's potential for future growth. The $PM_{2.5}$ emergency rule would cut against that long established approach by preventing a source from being able to add or replace equipment with limited permitting consequences so long as the source maintained emissions below the PSELs. The change being proposed would severely undercut the longstanding Oregon PSEL program and make it very difficult for us and other businesses in the state to justify equipment replacement or the addition of new manufacturing equipment. For this reason we urge DEQ to specify that a major modification does not occur so long as the source does not exceed the $PM_{2.5}$ PSEL established by this rule regardless of whether emissions are due to the use of existing capacity or the addition of new capacity.

$PM_{2.5}$ Increment (Division 202; Table 1)

Although EPA has not adopted $PM_{2.5}$ increments, and has specifically stated that no $PM_{2.5}$ analysis is required unless and until EPA adopts $PM_{2.5}$ increments, the Department has proposed to adopt the most stringent increment that EPA proposed. In its March 23, 2010 guidance, EPA expressly stated that $PM_{2.5}$ increment modeling is not required until EPA decides to adopt an increment value. As DEQ cannot determine what increment EPA will ultimately adopt, and no increment exists at this time, DEQ should not arbitrarily adopt an increment that is the lowest in a range of values under consideration by EPA. This is true in any context, but particularly in the context of an emergency rule. We encourage DEQ to remove the $PM_{2.5}$ increment from the proposed emergency rule.

Summary

We are concerned about including major policy and program re-writes in an emergency rulemaking instead of engaging in proper notice and comment rulemaking. Since 2006, Blue Heron has experienced a decline due to market conditions. In 2009, Blue Heron experienced financial difficulties due to the general downturn in the economy and depressed paper prices. These financial difficulties resulted in operational curtailments and slow-downs at times throughout 2009. On December 31, 2009, Blue Heron filed its petition with the bankruptcy court for reorganization under Chapter 11 of the Bankruptcy Code. Under the reorganization Blue Heron Paper's operational footprint will continue in a curtailed mode from our previous normal production levels, resulting in lower emissions until we are able to resume to normal production levels. This financial climate has affected the company's ability to invest in bigger capital projects for now.

Thank you for the opportunity to comment.

Sincerely,
Blue Heron Paper Company

George R. Lowe

George R. Lowe
Chief Operating Officer

INAHARA Jill

From: Humphreys, Lita [Lita.Humphreys@epminerals.com]
Sent: Monday, July 19, 2010 4:15 PM
To: INAHARA Jill
Cc: Carruth, Chantay
Subject: Temporary Rulemaking: PM2.5 New Source Review/Prevention of Significant Deterioriation

EP Minerals, LLC would like to comment on the emergency PM2.5 rules. We ask that DEQ considers allowing the emergency rules to take effect only upon withdrawal of the EPA surrogacy policy.
We feel the change being proposed may make it very difficult for businesses to add new manufacturing equipment when the PM2.5 baseline emission rate is based on your actual emissions in 2006 or 2007. It seems full blown PSD could be triggered as the result of a physical change that actually results in a decrease in your PM2.5 PSEL. For this reason, we urge DEQ to specify that a major modification does not occur so long as the source does not exceed the PM2.5 PSEL established by this rule regardless of whether emissions are due to the use of existing capacity or the addition of new capacity.

Best regards,

Please note my email address has changed to lita.humphreys@epminerals.com

Lita Humphreys
Health, Safety & Environmental Manager
EP Minerals, LLC
lita.humphreys@epminerals.com
Office Phone: (775) 824-7603
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ATI Wah Chang

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July 19, 2010

BY EMAIL (Inahara.Jill@deq.state.or.us)

Jill Inahara
Oregon DEQ, Air Quality Division
811 SW Sixth Ave.
Portland, OR 97204

Re: Follow-up Comments on Proposed Emergency $PM_{2.5}$ Regulations after July 19, 2010 Stakeholder Meeting

Dear Ms. Inahara:

Thank you for providing an opportunity for stakeholders to meet with DEQ today to discuss our concerns regarding the upcoming $PM_{2.5}$ rule making.

At the meeting this morning DEQ stated that under the proposed rules a source could trigger PSD for $PM_{2.5}$ without ever exceeding its $PM_{2.5}$ PSEL. It was explained that this could occur if there was a difference of 10 tons per year or more between the $PM_{2.5}$ baseline emission rate and the $PM_{2.5}$ PSEL. As explained, any physical change at the plant that resulted in the need for an increased PSEL would then trigger PSD. Oregon has a long and proud tradition of excluding changes from PSD when they can be accommodated under a PSEL. This has encouraged sources to decrease emissions knowing that they could benefit the environment in a manner that does not damage the company's potential for future growth. The $PM_{2.5}$ emergency rule would cut against that long established approach by preventing a source from being able to add or replace equipment with limited permitting consequences so long as the source maintained emissions below the PSELs. The change being proposed would severely undercut the longstanding Oregon PSEL program and make it very difficult for businesses in the state

to justify equipment replacement or the addition of new manufacturing equipment. For this reason we urge DEQ to specify that a major modification does not occur so long as the source does not exceed the $PM_{2.5}$ PSEL established by this rule regardless of whether emissions are due to the use of existing capacity or the addition of new capacity.

In light of the additional information provided at today's meeting, ATI Wah Chang and ATI Albany Operations requests that DEQ allow sources the maximum amount of flexibility in selecting their baseline years for $PM_{2.5}$ and GHG, including using the original 1977-78 baseline years. After further review and a better understanding of the proposed rulemaking, the most representative time period for ATI Wah Chang's actual emissions is the 1977-78 time period.

ATI Wah Chang and ATI Albany Operations also respectfully request that DEQ seriously consider not adopting a $PM_{2.5}$ increment at this time. Finally, given that EPA could take months before withdrawing the surrogacy policy, we strongly encourage DEQ to make the emergency rules take effect only upon withdrawal of the EPA surrogacy policy.

Thank you again for the opportunity to comment.

Sincerely,

Lee Weber, Director
Environmental Services

HAMPTON AFFILIATES

9600 SW Barnes Road, Suite 200
Portland, Oregon 97225
Telephone 503.297.7691
Fax 503.203.6604
www.HamptonAffiliates.com

July 16, 2010

BY EMAIL (Inahara.Jill@deq.state.or.us) AND FACSIMILE (503-229-5675)

Jill Inahara
Oregon DEQ, Air Quality Division
811 SW Sixth Ave.
Portland, OR 97204

Re: Comments on Proposed Emergency $PM_{2.5}$ Regulations

Dear Ms. Inahara:

I would like to thank you for taking the time to review and understand how the proposed Emergency $PM_{2.5}$ Regulations could impact Hampton Lumber Mills. Hampton is a family owned company that has been doing business in Oregon for over 50 years. Hampton employs over 750 employees in our Tillamook, Warrenton, and Willamina operations that will likely be impacted by the proposed regulations.

Hampton has become greatly concerned with the Department's use of its emergency rulemaking authority in the case of the proposed $PM_{2.5}$ regulations. We believe that this authority should be used only sparingly and that it is an abuse of process to exercise this authority instead of engaging in a formal public notice and comment rulemaking. We believe that the opportunity for public comment is nowhere more important than in relation to Oregon's new source review program. It is also our understanding that some of the proposed changes are very narrow in scope and were intended to bridge the permitting gap between now and when DEQ can complete a formal notice and comment rulemaking. However, we are concerned that some of the changes are restrictive and, therefore, not appropriate for an emergency rule. With that overview of our position, I present the following comments below.

Baseline Period (OAR 340-200-0020(14))

One of the most significant changes proposed by the DEQ is to establish the baseline year for $PM_{2.5}$ as 2006 or 2007. We recognize that for some industrial sectors the years 2006 and 2007 represent normal operations. In the case of the timber industry, we have been in an historic recession that began before 2007. While some companies trail into recession and for them, 2008

is a more representative year, we see no basis for setting 2006 and 2007 as the default baseline without an opportunity to rely upon a two year period that is more reflective of normal operations. We understand that the Department may want to use a year prior to 2010. However, we see no reason not to allow the use of any year between 1997 and 2009 (inclusive) so long as the source commits to the year and does not change once the year is elected.

$PM_{2.5}$ Precursor Baseline

The Department is proposing to create a new requirement for $PM_{2.5}$ precursors (NOx and SO_2), but it is proposing to retain the baseline emission rate as pre-1978 for those precursor pollutants. We encourage the Department to consider including an option for sources to establish a separate $PM_{2.5}$ precursor, if the source chooses, based on actual emissions during the chosen $PM_{2.5}$ baseline year. This should be an option, not mandatory. However, providing this flexibility will match $PM_{2.5}$ regulation better with Oregon's new source review program.

Baseline Freeze (OAR 340-200-0020(72)(b))

The Department is also proposing to require that $PM_{2.5}$ baseline emission rates be established as part of the first permit action after September 1, 2010 and frozen at the second permit action after September 1, 2010. We believe that this requirement is too stringent. Oregon sources are just beginning to get a sense of their $PM_{2.5}$ emissions and emission sources. In Hampton's case there is extremely limited data about $PM_{2.5}$. While we do not believe that it is unreasonable to require that $PM_{2.5}$ baselines be established, we do believe that freezing those baselines at the second permit action is extreme. Under this approach, a Title V source seeking an administrative amendment or an ACDP source seeking a minor change to its permit could trigger the $PM_{2.5}$ baseline freeze. We see no reason to rush this process, particularly in the context of an emergency rule. We recommend that baselines not be frozen until a source has had at least one complete permit cycle of experience with the newly regulated pollutant.

$PM_{2.5}$ Significant Impact Level (SIL)

We support the proposed choice of SILs for $PM_{2.5}$. We recognize that while EPA has not finalized the $PM_{2.5}$ SIL, it is to both the Department's and sources' benefit to have SILs defined pending EPA choosing a final value. We believe that the proposed values, which represent the upper end of the range proposed by EPA, are appropriate for the emergency rule.

$PM_{2.5}$ Baseline for Sources Permitted Prior to Rule Adoption

Hampton urges the Department to adopt a transition approach to the rule that avoids penalizing sources that were initially permitted or their permits were modified prior to adoption of the $PM_{2.5}$ rules. It is our understanding of the proposed regulations, that if one of our mills was permitted in 2008, and emitted 15 tons of $PM_{2.5}$, that we would be forced to undergo major new source review and potentially have to add significant emission controls and possibly provide offsets (in a nonattainment area) based on an increase in PSEL as small as 1 ton per year. We

believe that this will hamper economic growth and penalize sources that were legitimately permitted after the baseline period but before there was an ability to establish a $PM_{2.5}$ baseline.

Hampton is concerned that one of our mills will trigger PSD as the result of physical changes that can be accommodated under the PSEL established by the rule. We understand that in your July 19th 2010 meeting that the Department stated that under the proposed rules a source could trigger PSD for PM2.5 without ever exceeding its PM2.5 PSEL. It was explained that this could occur if there was a difference of 10 tons per year or more between the PM2.5 baseline emission rate and the PM2.5 PSEL. As explained, any physical change at the plant that resulted in the need for an increased PSEL would then trigger PSD. Oregon has a long and proud tradition of excluding changes from PSD when they can be accommodated under the PSEL. This encourages sources to decrease emissions knowing that they could benefit the environment in a manner that does not damage the company's potential for future growth. The PM2.5 emergency rule would eliminate this balanced approach by preventing a source from being able to add or replace equipment with limited permitting consequences so long as the source maintained emissions below the PSELs. The change being proposed would make it very difficult for businesses in the state to justify equipment replacement or the addition of new manufacturing equipment. For this reason we urge DEQ to specify that a major modification does not occur so long as the source does not exceed the PM2.5 PSEL established by this rule regardless of whether emissions are due to the use of existing capacity or the addition of new capacity.

$PM_{2.5}$ Increment (Division 202; Table 1)

It is our understanding that the EPA has not adopted a $PM_{2.5}$ increment, and has specifically stated that no $PM_{2.5}$ analysis will be required until EPA adopts $PM_{2.5}$ increment (March 23, 2010 EPA Guidance). So if the EPA has not issued a $PM_{2.5}$ increment, DEQ should not arbitrarily adopt an increment that is the lowest in a range of values under consideration by EPA. This is especially true in the context of an emergency rule. We therefore urge the DEQ to remove the $PM_{2.5}$ increment from the proposed emergency rule.

Thank you for the opportunity to comment.

Very truly yours,

David E. Like
Hampton Lumber Mills
(503) 876-1386 – Office
(503) 807-4023 – Mobile
(Davidlike@Hamptonaffiliates.com)

INAHARA Jill

From: RussellStrader@BC.com
Sent: Monday, July 19, 2010 5:08 PM
To: INAHARA Jill
Cc: KathrynVanNatta@VERIZON.NET
Subject: Comments on Proposed August 2010 Emergency PM 2.5 Rulemaking

Ms. Inahara:

Boise Cascade, L.L.C. operates ten wood products plants in Oregon that will be affected by ODEQ's proposed emergency PM 2.5 rulemaking. We are concerned about the impacts of the rulemaking on our operations. Though we are not members of the Northwest Pulp and Paper Association, we support the comments submitted by that organization. Furthermore, due to the extensive national air quality regulatory activity occurring at this time (Boiler MACT, Boiler GACT, & CISWI), we request ODEQ delay adopting the emergency rules until a later date.

Thank you for consideration of these comments.

Russell Strader
Environmental Manager
Boise Cascade, L.L.C.
1111 West Jefferson Street
PO Box 50
Boise, ID 83728
208/384-6679
Fax 208/395-7637

From: Jim Daniels [jimdaniels@rosboro.com]
Sent: Tuesday, July 20, 2010 11:15 AM
To: INAHARA Jill
Subject: Temporary Rulemaking: PM2.5 New Source Review/Prevention of Significant Deterioriation

I have just heard that at yesterday's meeting on the draft PM2.5 Rules, DEQ stated that a source could trigger PSD for PM2.5 without exceeding their PSEL. As I understand it, any physical change that results in a need for an increase in PSEL will automatically trigger PSD. Given this recent information, I hope that you will accept my comments.

I feel strongly that DEQ should specify that a major modification does not occur if the source doesn't exceed their PM2.5 PSEL. Oregon's traditional approach of excluding changes from PSD if they can be done within the PSEL is a critically important factor in sources' operating flexibility. This approach has encouraged sources to benefit the environment by decreasing emissions without hampering their potential for future growth. In today's rapidly changing business climate, equipment replacement or additions will never be done if the lengthy PSD process must be followed.

I would also like to comment that I believe DEQ should add a provision that the emergency rules will not take effect until EPA withdraws the surrogacy policy.

Thank you.

Jim Daniels
Environmental Supervisor
Rosboro LLC
541-736-2146

Weyerhaeuser

July 19, 2010

Ms. Jill Inahara
Oregon Department of Environmental Quality
Air Quality Division
811 Southwest Sixth Avenue
Portland, Oregon 97204

RE: Weyerhaeuser NR Company Comments on Proposed Emergency $PM_{2.5}$ Regulations

Dear Ms. Inahara:

Weyerhaeuser NR Company is committed to being fully compliant with all applicable environmental rules and regulations. Central to this commitment is the opportunity to provide comments to the Oregon Department of Environmental Quality (Department) by way of proper rulemaking; particularly on subjects as important as Oregon's new source review program.

We have become concerned by the Department's increased use of its emergency rulemaking authority. Implementation of such emergency rulemaking diminishes our ability as a stakeholder to properly participate in the rulemaking process. The proposed emergency $PM_{2.5}$ regulations are but the most recent example of this over used authority. Restraint should be exercised when employing this emergency mechanism so that it remains very much the exception and not the rule.

Therefore we are respectfully submitting comments regarding those changes to the proposed emergency $PM_{2.5}$ regulations that we believe are unnecessarily restrictive and consequently are not appropriate for an emergency rule. Our comments are as follows.

1. Weyerhaeuser NR Company requests that Department consider removing the $PM_{2.5}$ increment from the proposed emergency rule.
2. Weyerhaeuser NR Company requests that the Department consider changing the proposed emergency rule so that it does not take effect unless and until the EPA withdraws its surrogacy policy.

3. Weyerhaeuser NR Company requests that the Department consider specifying in the emergency rule that a major modification does not occur so long as the source does not exceed the $PM_{2.5}$ PSEL established by this emergency rule regardless of whether emissions are due to the use of existing capacity or the addition of new capacity.
4. Weyerhaeuser NR Company requests that the Department consider allowing a source to select a baseline year representative of its operations between the years of 1997 and 2010, inclusive.
5. Weyerhaeuser NR Company requests that the Department consider including an option in the emergency rule for sources electing to do so to establish a separate $PM_{2.5}$ precursor based on actual emissions during the chosen $PM_{2.5}$ baseline year.
6. Weyerhaeuser NR Company requests that the Department consider allowing baselines not to be frozen until a source has experienced one complete permit cycle with the newly regulated pollutant.
7. Weyerhaeuser NR Company requests that the Department consider adopting a transition component to the emergency rule that avoids penalizing sources that were initially permitted or their permits were modified prior to adoption of the $PM_{2.5}$ rule.
8. Weyerhaeuser NR Company is supportive of the Department in its proposed choice of the $PM_{2.5}$ Significant Impact Level.

We appreciate the opportunity to provide comments to the Department concerning this important matter.

Sincerely,

Dale F. Wonn

Environmental Manager
Weyerhaeuser NR Company

INAHARA Jill

From: allan mick [ALCMICK@msn.com]
Sent: Tuesday, July 20, 2010 1:51 PM
To: INAHARA Jill
Cc: Cameron Krauss; Jeff Remington
Subject: PM 2.5 Temporary Rulemaking

Jill,

In follow-up to yesterdays meeting, Swanson Group Mfg LLC has asked me to submit the following comments for DEQ review. Swanson concurs with comments submitted by John Ledger at AOI and offers the following additional observations:

The discussion yesterday between Tom Wood and Mark Fisher re where a source could trigger PSD for PM 2.5 without exceeding the PM 2.5 PSD PSEL, creates a troublesome situation that has manifested itself previously as a nightmare in other situations. Language in the rule should be written that every physical change that results in an increased need for PM 2.5 would not automatically trigger PSD. The rule should specify that a major modification does not occur if the source does not exceed PM 2.5 PSEL established by this rule regardless of whether emissions are due to the use of existing or additional new capacity.

Swanson understands DEQ's reason to adopt temporary PM 2.5 rules at this time. However, Swanson suggests language that the temporary rules only become effective if and when EPA withdraws its PM 2.5 surrogacy policy.

Everyone recognizes that the process in developing the temporary PM 2.5 rule has by necessity been rushed and has not been thoroughly reviewed. The process to adopt permanent rules at a later date should not rely the temporary rule conditions which may be flawed. Is there a way to sunset the temporary rule to avoid carryover of unreviewed conditions?

Thank you for your consideration of the above comments.

Al Mick
26850 Dixie Mountain Road
Scappoose, OR 97056
503-621-3800

INAHARA Jill

From: Wood, Thomas [TRWOOD@stoel.com]
Sent: Wednesday, July 21, 2010 12:44 PM
To: PAPISH Uri; INAHARA Jill; FISHER Mark
Cc: GINSBURG Andy
Subject: PM2.5 rulemaking

All: I wanted to thank you all for having Monday's meeting to discuss the proposed PM2.5 emergency (temporary) rule. I recognize that there is a need for an emergency rule to cover a regulatory gap in the event that EPA withdraws its PM10 surrogacy policy.

However, I urge the Department to include language saying that DEQ's emergency rule does not take effect unless and until EPA actually withdraws its PM10 surrogate policy.

I also urge the Department to include language in the emergency rule stating that if a source seeks to increase a plant site emission limit (PSEL) for a pollutant other than PM2.5 that it will not trigger the need for PM2.5 review. For the purposes of the emergency rule this language would avoid such unintended consequences as forcing a source that only seeks an increase in its CO PSEL to have to undergo major new source review for PM2.5. EPA would never require such an outcome under its program and Oregon should not institute an emergency PM2.5 rule that would cause this to occur either. An emergency rule is only authorized by law if the agency makes a finding that the failure to proceed without the benefits of formal notice and comment rulemaking is necessary to avoid serious prejudice to the public interest. Ensuring that there is a smoothly working permitting program in the wake of EPA withdrawing its PM10 surrogacy policy clearly meets this test. However, any emergency rule should be as narrow as possible to reach the intended goal. Implementing a rule that would trigger extensive review in the event that pollutants other than PM2.5 increase is not narrow and focused rulemaking. For that reason there are strong legal and practical reasons to limit the scope of the emergency rule so that it exclusively affects PM2.5 and so that PM2.5 review is limited exclusively to those situations where PM2.5 emissions would exceed the baseline by a significant emission rate or more.

Finer details of the regulation of PM2.5 can be addressed in the final rule. However, these two aspects should be incorporated in the temporary rule to avoid unintended consequences and to avoid action outside the scope of ORS 183.335(5).

Thank you for this opportunity to express my views. I look forward to further discussion as part of the permanent rulemaking proceedings.

Tom

Thomas R. Wood
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Flakeboard

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7676 North East Old Salem Road
Albany, Oregon 97321
Tel: 541-928-8341
Fax: 541-928-4119

July 23, 2010

BY EMAIL (Inahara.Jill@deq.state.or.us) AND FACSIMILE (503-229-5675)

Jill Inahara
Oregon DEQ, Air Quality Division
811 SW Sixth Ave.
Portland, OR 97204

Re: Comments on Proposed Emergency $PM_{2.5}$ Regulations
Flakeboard America - Duraflake Particleboard, Albany, Oregon

Dear Ms. Inahara:

Flakeboard America operates a particleboard manufacturing facility in Albany, Oregon. As one of North America's oldest composite panel manufacturer, we are very concerned what the Department is proposing will regarding the emergency $PM_{2.5}$ regulations.

In 2010, we proudly celebrate 50 years of producing high quality products at this location with 120 employees, and we believe this regulation is one of many that may jeopardize the future of this facility, in particular during these difficult economic conditions. Duraflake is a major source and operates under Title V Permit # 22-0143-TV-01. The facility operates combustion sources that may contain $PM_{2.5}$, therefore we have a keen interest in the proposed regulations.

I would like to open by saying that we are concerned regarding the Department's increased use of its emergency rulemaking authority. We believe that this authority should be used sparingly and that it would be an abuse of process to routinely exercise this authority instead of engaging in proper notice and comment rulemaking. We believe that this sort of opportunity for comment is nowhere more important than in relation to changes to a bedrock program such as Oregon's new source review program. Most of the changes proposed are narrow in scope and will serve to bridge the permitting gap between now and when DEQ can complete notice and comment rulemaking. However, we are concerned that certain changes are unnecessarily restrictive and, therefore, not appropriate for an emergency rule. With that overview of our position, I present our specific comments below.

Baseline Period (OAR 340-200-0020(14))

One of the most significant changes proposed for the emergency rules is the proposal to establish the baseline year for $PM_{2.5}$ as 2006 or 2007. We recognize that for some industrial sectors the years 2006 and 2007 represent normal, pre-recession operations. However, other companies trail into recession and for them, 2008 may be a more representative year. We see no basis for setting 2006 and 2007 as the default baseline years with no opportunity to rely upon a more recent year. We understand that the Department may want to use a year prior to 2010. However, we see no reason not to allow the use of any year between 1997 and 2009 (inclusive) so long as the source commits to the year and does not change once the year is elected.

$PM_{2.5}$ Precursor Baseline

The Department is proposing to create a new requirement for $PM_{2.5}$ precursors (NOx and SO_2), but it is proposing to retain the baseline emission rate as pre-1978 for those precursor pollutants. We encourage the Department to consider including an option for sources to establish a separate $PM_{2.5}$ precursor, if the source chooses, based on actual emissions during the chosen $PM_{2.5}$ baseline year. This should be an option, not mandatory. However, providing this flexibility will match $PM_{2.5}$ regulation better with Oregon's new source review program.

Baseline Freeze (OAR 340-200-0020(72)(b))

The Department is also proposing to require that $PM_{2.5}$ baseline emission rates be established as part of the first permit action after September 1, 2010 and frozen at the second permit action after September 1, 2010. We believe that this requirement is too stringent. Flakeboard is just beginning to get a sense of their $PM_{2.5}$ emissions and emission sources, but without approved EPA testing methodology, facilities cannot definitively measure PM2.5 emissions at this time. While we do not believe that it is unreasonable to require that $PM_{2.5}$ baselines be established expeditiously, we do believe that freezing those baselines at the second permit action is extreme. Under this approach, a Title V source seeking an administrative amendment or an ACDP source seeking a minor change to its permit could trigger the $PM_{2.5}$ baseline freeze. We see no reason to rush this process, particularly in the context of an emergency rule. We recommend that baselines not be frozen until a source has had at least one complete permit cycle of experience with the newly regulated pollutant.

$PM_{2.5}$ Significant Impact Level (SIL)

We support the proposed choice of SILs for $PM_{2.5}$. We recognize that while EPA has not finalized the $PM_{2.5}$ SIL, it is to both the Department's and sources' benefit to have SILs defined pending EPA choosing a final value. We believe that the proposed values, which represent the upper end of the range proposed by EPA, are appropriate for the emergency rule.

$PM_{2.5}$ Baseline for Sources Permitted Prior to Rule Adoption

We strongly urge DEQ to adopt a transition component to the rule that avoids penalizing sources that were initially permitted or their permits were modified prior to adoption of the $PM_{2.5}$ rules. A source that was permitted in 2008 and that emits 15 tons of $PM_{2.5}$ would be forced to undergo major new source review and potentially have to add significant additional controls and provide offsets (in a nonattainment area) based on an increase in PSEL as small as 1 ton per year. We believe that this will severely hamper economic growth and penalize sources that were legitimately permitted after the baseline period but

July 23, 2010

before there was an ability to establish a $PM_{2.5}$ baseline. Therefore, we urge the Department to afford those sources relief and allow sources permitted before the rule adoption but that had not commenced operation by the start of the most recent baseline year, to establish baseline equal to the permitted emission rate.

$PM_{2.5}$ Increment (Division 202; Table 1)

Although EPA has not adopted $PM_{2.5}$ increments, and has specifically stated that no $PM_{2.5}$ analysis is required unless and until EPA adopts $PM_{2.5}$ increments, the Department has proposed to adopt the most stringent increment that EPA proposed. In its March 23, 2010 guidance, EPA expressly stated that $PM_{2.5}$ increment modeling is not required until EPA decides to adopt an increment value. As DEQ cannot determine what increment EPA will ultimately adopt, and no increment exists at this time, DEQ should not arbitrarily adopt an increment that is the lowest in a range of values under consideration by EPA. This is true in any context, but particularly in the context of an emergency rule. We encourage DEQ to remove the $PM_{2.5}$ increment from the proposed emergency rule.

Thank you for the opportunity to comment.

Sincerely,

Malisa Maynard

Malisa Maynard
Environmental Health and Safety Manager

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Environmental Quality (Agency and Division)
OAR Chapter 340, Divisions 200, 202, 216, 224, 225 (Administrative Rules Chapter Number)

In the Matter of: $PM_{2.5}$ New Source Review/Prevention of Significant Deterioration, OAR Chapter 340, Divisions 200, 202, 224, and 225 and Air Contaminant Discharge Permit Deferral, OAR Chapter 340, Division 216

Statutory Authority: ORS 468.020, ORS 468.065, ORS 468A.025, ORS 468A.040, ORS 468A.055

Other Authority: N/A

Statutes Implemented: ORS 468A.055

Need for the Temporary Rule(s)
The temporary rulemaking would align Oregon rules with EPA's proposal to end the 1997 PM_{10} Surrogate Policy. The policy enabled sources to demonstrate compliance with federal New Source Review/Prevention of Significant Deterioration requirements using PM_{10}, particulate matter less than or equal to 10 micrometers in diameter, as a surrogate for $PM_{2.5}$, particulate matter less than 2.5 microns in diameter. EPA determined that undertaking a $PM_{2.5}$ analysis is no longer constrained by technical challenges.

The temporary rulemaking would allow DEQ to defer for up to twelve months the requirement for certain sources subject to new air quality standards to submit an application for, or to obtain, an Air Contaminant Discharge Permit. The current rule allows DEQ to defer this requirement for up to six months. The proposed rule revision would allow DEQ to phase-in permitting requirements by source category, to streamline agency workflow and provide better customer service.With the current rules DEQ would not be able to process the volume of applications within the required deadlines.

Background
EPA adopted standards for $PM_{2.5}$ based on their links between fine particulate matter and serious health problems ranging from increased symptoms, hospital admissions and emergency room visits to premature death for people with heart and lung disease.

New Source Review/Prevention of Significant Deterioration is a pre-construction permitting program that serves two important purposes:

1. It ensures air quality is maintained when factories, industrial boilers and power plants are built or modified.
2. It also ensures that state-of-the art emission control technology is installed at new plants or existing plants that are undergoing a major modification.

If a major source makes a change at its facility that increases emissions above a threshold, the owner or operator must go through an extra analysis to make sure the source is not causing significant, additional air quality problems. Major sources are businesses such as pulp and paper,

steel mills, wood products, electronics and power generation. There are about 115 major sources in Oregon. The extra analysis includes a review of control technology, modeling air quality impacts and assessing impacts on soils, vegetation and visibility. The result is often a need to install new emission controls. The fee for this type of permit is $42,000 and can take at least seven months to process.

EPA's pending revocation of the PM_{10} Surrogate Policy creates a problem since Oregon has not yet adopted rules needed to implement the New Source Review/Prevention of Significant Deterioration program for $PM_{2.5}$. There is no threshold, or significant emission rate, for $PM_{2.5}$ in Oregon's rules, so any increase in permitted $PM_{2.5}$ emissions would trigger an extensive analysis. This would cause a considerable increase in workload for the regulated community and DEQ with no appreciable environmental benefit. Companies might avoid or delay making needed changes to their facilities. The proposed rule changes prevent these problems by adopting EPA's $PM_{2.5}$ Prevention of Significant Deterioration thresholds and other New Source Review/Prevention of Significant Deterioration implementing rules.

The proposed rule amendments adopt a significant emission rate, or threshold, of 10 tons per year of $PM_{2.5}$. A facility would not need to go through the New Source Review/Prevention of Significant Deterioration permitting unless the company made a physical change that increased emissions above this threshold. The rule amendments also adopt significant air quality impact levels, Prevention of Significant Deterioration increments, and significant monitoring concentrations for $PM_{2.5}$. These changes are needed for DEQ to implement the New Source Review/Prevention of Significant Deterioration program for $PM_{2.5}$ without causing an excessive burden for both DEQ and regulated businesses.

DEQ is in the process of permitting sources newly subject to federal area source National Emission Standards for Hazardous Air Pollutants. In December 2009, the commission adopted new NESHAP rules that require over one thousand businesses to obtain an air quality permit, many of which are subject to permitting for the first time. The current rules allow DEQ to defer the deadline to apply for these permits until October 2010, and to defer the deadline to obtain these permits until December 2010. However, the commission's rules allow sources to apply as late 60 days before the permit issuance deadlines. As a result, hundreds of sources could apply for their permits in October 2010. DEQ lacks the permitting resources to process and issue hundreds of new permit applications in two months, and therefore many sources would not receive their permits by December 2010 as required by law. The NESHAP permit application overload could prevent DEQ permitting staff from completing the remainder of its permit work in a timely fashion. The proposed temporary rule would alleviate these potential problems by allowing DEQ to phase-in permit application deadlines by source category, so that not all source categories would submit their applications at the same time and overwhelm DEQ's capacity to process them.

Documents Relied Upon

Federal Register / Vol. 75, No. 28 / Thursday, February 11, 2010 / Proposed Rules
http://edocket.access.gpo.gov/2010/pdf/2010-2983.pdf

Justification of Temporary Rule(s)

The commission finds that failure to adopt the temporary rule will result in serious prejudice to the public interest because it will have the following consequences:

If Oregon's $PM_{2.5}$ rules are not changed, an indeterminate number of sources would need to evaluate whether they are required to obtain a permit or permit modification for $PM_{2.5}$ emissions. Of those, several hundred sources may need preconstruction permits due to minor emissions of $PM_{2.5}$. DEQ lacks the capacity to process all the potential permits with existing staff according to permit review and issuance deadlines, and would suffer serious prejudice as a result. Additionally, sources subject to the New Source Review/Prevention of Significant Deterioration program for minor emissions of $PM_{2.5}$ would have to undergo a minimum seven-month permitting process and expend substantial funds for permit fees and air quality analyses, and possibly purchase costly pollution controls, all before building a new facility or modifying an existing one. This cost and delay could seriously prejudice the sources as a financial matter, with little corresponding environmental benefit.

If Oregon's rules are not changed to extend the deadlines for submitting and obtaining permits pursuant to a NESHAP adopted by the commission, DEQ will lack the capacity to process the hundreds of permits that will be filed perhaps no earlier than 60 days before sources need the permits this December. DEQ permit staff will be unable to process those permits timely, and as a result will not be able to process their non-NESHAP permits, some of which are subject to mandatory processing deadlines. DEQ would therefore suffer serious prejudice. Sources required to obtain a permit pursuant to a NESHAP adopted by the commission would also suffer serious prejudice, because they are not required to submit permit applications until 60 days before they are required to obtain permits. However, if hundreds of sources wait to apply until the 60-day deadline in October, DEQ permit staff will be unable to process and issue their permits by the date they are required by law to obtain permits.

Housing Cost Impacts

DEQ has determined that this proposed rulemaking will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family-dwelling on that parcel.

_____ _____

Dick Pedersen, DEQ director Date signed
On behalf of the Oregon Environmental Quality Commission