State of Oregon
Department of Environmental Quality Memorandum

Date: March 31, 2011

To: Environmental Quality Commission

From: Dick Pedersen, Director

Subject: Agenda item D, Rule adoption: New Source Review/particulate matter and greenhouse gas permitting requirements and other permitting updates
April 21-22, 2011, EQC meeting

Why this is important

Oregon's rules must be updated to align with significant changes made to federal air quality permitting regulations. The Environmental Protection Agency's rules now address permitting of greenhouse gases and fine particulate (less than or equal to 2.5 microns in diameter) emissions, but Oregon's rules do not. As a result, DEQ is unable to issue EPA-required greenhouse gas related permits or implement the PM2.5 permitting program until the commission adopts implementing rules equivalent to EPA's.

This rulemaking is also needed to align Oregon's administrative rules with recent statutory changes made to ORS 468A.040 and to update Oregon's rules to match changes made to EPA's acid rain program.

DEQ recommendation and EQC motion

DEQ recommends that the Environmental Quality Commission adopt the proposed rule amendments to OAR Chapter 340, Divisions 200, 202, 215, 216, 222, 224, 225, 228, and 246 as presented in attachment A, including amendments to the Oregon Clean Air Act Implementation Plan, OAR 340-200-0040, to incorporate these rule amendments. DEQ also recommends that EQC authorize DEQ to submit these rule amendments to the U.S. Environmental Protection Agency for federal approval of the revisions to Oregon's Clean Air Act Implementation Plan, also called the State Implementation Plan.

Background and need for rulemaking

DEQ proposes rulemaking that would update Oregon's New Source Review/Prevention of Significant Deterioration program for fine particles and greenhouse gases and update other permitting rules.

New Source Review/Prevention of Significant Deterioration for $PM_{2.5}$
The New Source Review/Prevention of Significant Deterioration program is a pre-construction permitting program that ensures:

1. Air quality is protected when manufacturing facilities, facilities with industrial boilers and power plants are built or modified by requiring an ambient air quality analysis, and
2. State-of-the art emission control technology is installed at new plants or existing plants with significant changes.

The Clean Air Act requires EPA to set National Ambient Air Quality Standards for certain air pollutants to limit pollution nationally. Areas that meet these standards are designated as attainment areas, and those that do not are designated as nonattainment areas. New Source Review is the preconstruction permitting program

for nonattainment areas and Prevention of Significant Deterioration is the program for attainment or unclassifiable areas.

In 1997, EPA adopted the first NAAQS for $PM_{2.5}$, particulate matter less than 2.5 microns in diameter, because exposure can cause respiratory and pulmonary symptoms, increased hospital admissions and emergency room visits and premature death for those with heart and lung disease. New and modified major sources of $PM_{2.5}$ became subject to the NSR/PSD program once EPA adopted these standards. However, technical challenges with implementation led EPA to issue a PM_{10} surrogate policy. This policy allowed sources to conduct an ambient air quality analysis for PM_{10}, particulate matter less than 10 microns in diameter, in lieu of $PM_{2.5}$. EPA subsequently adopted implementing rules and procedures for $PM_{2.5}$. This proposal would adopt equivalent $PM_{2.5}$ rules and replace a temporary rule adopted by the commission Aug. 19, 2010.

Prevention of Significant Deterioration and Title V Operating Permits for Greenhouse Gases

Greenhouse gas emission sources became subject to Prevention of Significant Deterioration construction and Title V operating permitting when the first greenhouse gas permitting regulations adopted by EPA became effective. In anticipation of this major change in the permitting program, EPA set greenhouse gas emission thresholds that trigger PSD permitting in a regulation known as the tailoring rule, which was adopted in May 2010. The tailoring rule reduces regulatory impacts by phasing in the applicability of PSD and Title V permitting programs to greenhouse gas sources, starting with the largest emitters that are otherwise subject to permitting.

This rulemaking is necessary for DEQ to regulate greenhouse gas sources in Oregon and to maintain an EPA-approvable State Implementation Plan — a federally-approved plan detailing how states meet Clean Air Act requirements. EPA has determined that unless Oregon's PSD program is modified, Oregon's SIP would not meet Clean Air Act requirements because it does not address greenhouse gas-emitting sources. Since Oregon did not have greenhouse gas rules adopted by Jan. 2, 2011, EPA, in cooperation with DEQ, imposed a Federal Implementation Plan in Oregon; EPA will issue greenhouse gas PSD permits for facilities in Oregon until DEQ's rules are adopted, after which EPA may delegate authority to Oregon to implement the federal rules for greenhouse gas PSD permit issuance until EPA approves the state rules.

On March 11, 2011, EPA proposed rule language to defer PSD and Title V permitting requirements for carbon dioxide emissions from the combustion or decomposition of biomass for three years. During the three-year deferral period, EPA will study these emissions and develop a final rule to establish how they should be regulated. DEQ has revised the proposed rules to exempt biomass emissions to

the extent they are exempt from federal permitting requirements.

Small-Scale Local Energy Projects
EPA requires states to have construction approval programs for smaller, minor, air pollution sources, but gives states flexibility in how to do this. Oregon's minor source construction approval program generally applies more rigorous major source New Source Review/Prevention of Significant Deterioration program requirements to sources with emissions well below the federal major source thresholds. Oregon House Bill 2952 (2009) revised how the minor source construction approval program works for small-scale local energy projects to allow sources greater flexibility when siting projects while ensuring that these projects can be constructed without imposing a material threat to air quality. The proposed rules incorporate the changes made to ORS 468A.040 by House Bill 2952.

Acid Rain Permitting Rule Update
EPA updated the federal acid rain program rules, and DEQ proposes to adopt the updated rules by reference to keep Oregon's rules current.

Effect of rule

DEQ expects the proposed rules to affect approximately 1,256 permitted sources in Oregon in addition to future applicants.

New Source Review/Prevention of Significant Deterioration for $PM_{2.5}$
The proposed rule amendments would adopt a threshold or significant emission rate of 10 tons per year of $PM_{2.5}$ as a significant change at an existing facility. Facilities would trigger NSR/PSD permitting only if a physical change increased emissions above this threshold. The rulemaking would also adopt levels to determine if additional ambient air quality analysis is required, track the cumulative impact of emissions growth in areas that meet air quality standards and determine if preconstruction monitoring is required for $PM_{2.5}$. Adoption of the rules will allow DEQ to continue implementing the New Source Review Program.

Prevention of Significant Deterioration and Title V Operating Permits for Greenhouse Gas
The rulemaking would establish a major source threshold for greenhouse gases of at least 100,000 tons per year on a carbon dioxide equivalent basis and at least 100 tons per year of a greenhouse gas on a mass basis, and a threshold for defining a significant change, of 75,000 tons CO_2e per year, consistent with EPA's greenhouse gas tailoring rule. Carbon dioxide equivalent is a unit of measurement that allows the effect of different greenhouse gases to be compared using carbon dioxide as a standard unit for reference. The rulemaking would also clarify other aspects of the NSR/PSD program for greenhouse gases and other pollutants.

Small-Scale Local Energy Projects
If adopted, this rulemaking would provide small-scale local energy projects more flexibility in obtaining reductions to offset proposed emission increases, unless DEQ determines the project will pose a compliance threat in geographic areas that are

working to either maintain or do not meet air quality standards.

Acid Rain Permitting Rule Update
Oregon's rules would reflect EPA's changes in the federal acid rain program.

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, ORS 468A.055 and ORS 468A.310.

Stakeholder involvement

Public stakeholder meetings were held July 19, 2010, and Aug. 13, 2010, to discuss the proposed temporary rule changes. All permit holders and individuals who indicated interest in air quality rule makings were notified and invited to attend. An announcement of the meetings was posted on DEQ's website. Input from the stakeholder meetings was incorporated into the proposed rules where appropriate. Additional meetings were held with individual stakeholders in late September, early October, late November, and mid December, 2010.

Public comment

DEQ held a public comment period for this proposed rule adoption from Oct. 14, 2010, to Nov. 24, 2010, and convened public hearings in Medford, Bend, Portland and Salem. DEQ received no oral comments at the public hearings and 19 written comments. Based on the comments received, DEQ reopened the comment period asking for additional input on alternative approaches to incorporate $PM_{2.5}$ and greenhouse gases into the NSR/PSD program. This second comment period started Dec. 10, 2010, and closed Jan. 14, 2011. Revised draft language was released for comment Dec. 23, 2010. During the second public comment period, DEQ held meetings with industry, environmental stakeholders and EPA. DEQ received comments from 14 organizations, some of which had commented previously. A summary of comments and DEQ responses is provided in attachment D. Copies of the public comments are provided in attachment E.

Key issues

New Source Review/Prevention of Significant Deterioration for $PM_{2.5}$
The key issue for $PM_{2.5}$ NSR/PSD was how to incorporate $PM_{2.5}$ as a new pollutant into the existing Oregon program. Because Oregon's underlying NSR/PSD rules are different from the federal rules, DEQ considered a number of options for incorporating $PM_{2.5}$ into the program and asked for public comment on each option. After deliberating with stakeholders and reviewing comments, DEQ is recommending a straightforward and implementable option. This approach treats $PM_{2.5}$ and PM_{10} similarly since the two pollutants are closely related. In fact, $PM_{2.5}$ is a subset of PM_{10}, which is a pollutant already addressed by the existing permitting rules. As a result, DEQ would evaluate the amount of PM_{10} that is $PM_{2.5}$ at a facility and use that fraction to calculate permitted levels for $PM_{2.5}$. This approach incorporates $PM_{2.5}$ at this time as if it had been part of the program all along;

ensuring that previously approved expansions can continue to operate and that new expansions are reviewed consistent with state and federal requirements. It also avoids the need to select a unique starting point – or baseline period – for counting changes in $PM_{2.5}$ emissions towards triggering NSR/PSD, which commenters indicated could advantage or disadvantage their individual facilities.

Prevention of Significant Deterioration and Title V Operating Permits for Greenhouse Gases

The key issue for greenhouse gas PSD was how to incorporate greenhouse gases as a new pollutant and whether to stay with Oregon's approach to implement PSD or use the federal approach to implement PSD for greenhouse gases. DEQ received comments on both sides of this issue and consulted with EPA about how the federal system might be used in Oregon. After evaluating the strengths and weaknesses of each program, DEQ is recommending that Oregon retain its unique approach to PSD for greenhouse gases because it provides equal environmental protection while creating incentives for voluntary early reductions and reducing administrative costs. Because greenhouse gas is a new pollutant, DEQ is recommending that the baseline period be selected as any year during the last ten years. This would reflect current operations at facilities, but allow flexibility in case emissions were low in any given year due to temporary economic conditions.

Program Improvement

One additional issue, which applies to any pollutant under Oregon's NSR/PSD program, was raised during the comment period. This issue has to do with the way Oregon's rules set the starting emission level – or netting basis – for counting emission changes for new and expanding facilities when they are initially permitted. To ensure that the NSR/PSD program is protective, companies are required to evaluate the air quality effects that would occur if a new or expanded facility operated at its capacity. Once this level is approved, it is also added to a facility's netting basis even though the facility may never actually operate at that level. This unrealistically high starting emission level could allow a future expansion to avoid NSR/PSD. To address this concern, DEQ is recommending the addition of a process to reset the netting basis once a new or expanded facility has been operating for up to 10 or 15 years to establish a realistic level. This would apply to major greenhouse gas sources that were permitted but not yet operating before the greenhouse gas rules were adopted and to future NSR/PSD sources. The process would not limit the ability of a facility to operate permitted equipment, but would prevent use of the added netting basis until the level is reset.

Next steps DEQ will continue to provide outreach and technical assistance to sources affected by the new rules and will submit a revised State Implementation Plan to EPA in May 2011. DEQ will update Title V and Air Contaminant Discharge Permits to incorporate rule changes.

Attachments A. Proposed rule with amendments shown in redline format

B. Summary of proposed rule changes including basis for changes
C. Alternative rule options
D. Summary of public comments and agency responses
E. Public comments
F. Statement of Need and Fiscal and Economic Impact
G. Land Use Evaluation Statement
H. Notice of proposed rulemaking hearing
I. Relationship to Federal Requirements questions

Available upon request

1. ORS 468.020, ORS 468.065, ORS 468A.025, ORS 468A.040, ORS 468A.055 and ORS 468A.310.

Approved:

Division: _____

Section: _____

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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 paragraphs (B) and (C) of this subsection and subsection (b) of this section, actual emissions equal the average rate at which the source actually emitted the pollutant during an applicable 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 applicable baseline period if it is within 10% of the actual emissions calculated under paragraph (A) of this subsection.

(C) Actual emissions equal the potential to emit of the source for the sources listed in paragraphs (i) through (iii) of this paragraph. The actual emissions will be reset if required in accordance with subsection (c) of this section.

(i) Any source or part of a source that had not begun normal operations during the applicable baseline period but was approved to construct and operate before or during the baseline period in accordance with OAR 340 division 210, or

(ii) Any source or part of a source of greenhouse gases that had not begun normal operations prior to January 1, 2010, but was approved to construct and operate prior to January 1, 2011 in accordance with OAR 340 division 210, or

(iii) Any source or part of a source that had not begun normal operations during the applicable baseline period and was not required to obtain approval to construct and operate before or during the applicable baseline period.

(~~C~~b) For any source or part of a source that had not begun normal operations during the applicable baseline period, but was approved to construct and operate in accordance with OAR 340 division 224, actual emissions on the date the permit is issued equal the potential to emit of the source. The actual emissions will be reset if required in accordance with subsection (c) of this section.

(c) Where actual emissions equal potential to emit under paragraph (a)(C) or subsection (b) of this section, the potential emissions will be reset to actual emissions as follows:

(A) Paragraphs (A) through (D) of this subsection apply to sources whose actual emissions of greenhouse gases were determined pursuant paragraph 3(a)(C), and to all other sources of all other regulated pollutants that are permitted in accordance with OAR division 224 on or after May 1, 2011.

(B) Except as provided in paragraph (D) of this subsection, ten years from the end of the applicable baseline period under paragraph (a)(C) or ten years from the date the permit is issued

under subsection (b), or an earlier time if requested by the source in a permit application involving pubic notice, the Department will reset actual emissions to equal the highest actual emission rate during any consecutive 12-month period during the ten year period or any shorter period if requested by the source.
(C) Any emission reductions achieved due to enforceable permit conditions based on OAR 340-226-0110 and 0120 (highest and best practicable treatment and control) are not included in the reset calculation required in paragraph (B) of this subsection.
(D) The Department may extend the date of resetting by five additional years upon satisfactory demonstration by the source that construction is ongoing or normal operation has not yet been achieved.
(~~b~~d) 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~~e) 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 determined in accordance with division 220 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 direct 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;
(h) 2,756 tons CO2e for greenhouse gases.
(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~~a baseline period. Baseline emission rate does not include increases due to voluntary fuel switches or increased hours of operation that occurred after ~~the~~ that baseline period.
(a) A baseline emission rate will be established only for regulated pollutants subject to OAR 340 division 224 as specified in the definition of regulated pollutant. A baseline emission rate will not be established for PM2.5.
(b) The baseline emission rate for greenhouse gases, on a CO2e basis, will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.
(c) For a pollutant that becomes a regulated pollutant subject to OAR 340 division 224 after May 1, 2011, the initial baseline emission rate is the actual emissions of that pollutant during any consecutive 12 month period within the 24 months immediately preceding its designation as a regulated pollutant if a baseline period has not been defined for the pollutant.
(d) The baseline emission rate will be recalculated if actual emissions are reset in accordance with the definition of actual emissions.
(e) Once the baseline emission rate has been established or recalculated in accordance with subsection (d) of this section, the production basis for the baseline emission rate may only be changed if a material mistake or an inaccurate statement was made in establishing the production basis for baseline emission rate.
(14) "Baseline Period" means:
(a) ~~a~~Any consecutive 12 calendar month period during the calendar years 1977 or 1978 for any regulated pollutant other than greenhouse gases. The Department may allow the use of a prior time period upon a determination that it is more representative of normal source operation.
(b) Any consecutive 12 calendar month period during the calendar years 2000 through 2010 for greenhouse gases.
(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) "Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.

(167) "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.

(178) "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.

(19) "Carbon dioxide equivalent" or "CO2e" means an amount of a greenhouse gas or gases expressed as the equivalent amount of carbon dioxide, and shall be computed by multiplying the mass of each of the greenhouse gases by the global warming potential published for each gas at 40 CFR Part 98, subpart A, Table A–1—Global Warming Potentials, and adding the resulting value for each greenhouse gas to compute the total equivalent amount of carbon dioxide.

(1820) "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~~21) "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.
(2~~0~~2) "CFR" means Code of Federal Regulations.
(2~~1~~3) "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.
(2~~2~~4) "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.
(2~~3~~5) "Commission" or "EQC" means Environmental Quality Commission.
(2~~4~~6) "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.
(2~~5~~7) "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.
(2~~6~~8) "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.
(2~~7~~9) "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~~30) "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.

(2931) "Criteria Pollutant" means nitrogen oxides, volatile organic compounds, particulate matter, PM10, PM2.5, sulfur dioxide, carbon monoxide, or lead.

(302) "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.

(313) "De minimis emission levels" means: the levels for the pollutants listed in Table 4. [Table not included. See ED. NOTE.]

NOTE: De minimis is compared to all increases that are not included in the PSEL.

(324) "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.

(335) "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.

(36) "Direct PM2.5" has the meaning provided in the definition of PM2.5.

(347) "Director" means the Director of the Department or the Director's designee.

(358) "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.

(3639) "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.

(3740) "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.

(~~38~~41) "Emission" means a release into the atmosphere of any regulated pollutant or any air contaminant.
(~~39~~42) "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~~3) "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.~~
(4~~1~~4)(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.
(4~~2~~5) "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.
(4~~3~~6) "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.
(4~~4~~7) "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).
(458) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.
(469) "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.
(4750) "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.
(4851) "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.
(4952) "Excess emissions" means emissions in excess of a permit limit or any applicable air quality rule.
(503) "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.
(514) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.
(525) "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. In addition, for greenhouse gases, a federal major source must also have the potential to emit CO2e greater than or equal to 100,000 tons per year. The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a federal major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.
(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.
(536) "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.
(547) "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.
(558) "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.
(569) "Generic PSEL" means~~:~~ the levels for the pollutants listed in Table 5. ~~[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~~Table 5. Baseline emission rate and netting basis do not apply to pollutants at sources using generic PSELs.
(60)(a) “Greenhouse Gases” or “GHGs” means the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Each gas is also individually a greenhouse gas.
(b) The definition of greenhouse gases in subsection (a) of this section does not include, for purposes of division 216, 218, and 224, carbon dioxide emissions from the combustion or decomposition of biomass except to the extent required by federal law.
(5761) "Growth Allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.

(5862) "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.
(5963) "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.
(604) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.
(615) "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.
(626) "Late Payment" means a fee payment which is postmarked after the due date.
(637) "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.
(648) "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.
(659) "Maintenance Pollutant" means a pollutant for which a maintenance area was formerly designated a nonattainment area.
(6670) "Major Modification" means any physical change or change in the method of operation of a source that results in ~~the following~~satisfying the requirements of both subsections (a) and (b) of this section, or of subsection (c) of this section for any regulated air pollutant~~:~~. Major modifications for ozone precursors or PM2.5 precursors also constitute major modifications for ozone and PM2.5, respectively.
(a) Except as provided in subsection (d) of this section, ~~An increase in the~~a PSEL that exceeds the netting basis by an amount that is equal to or ~~more~~greater than the significant emission rate ~~over the netting basis; and~~.
(b) The accumulation of emission increases due to physical changes and changes in the method of operation ~~since baseline would result in a~~ as determined in accordance with paragraphs (A) and (B) of this subsection is equal to or greater than the significant emission rate ~~increase~~.
(A) Calculations of emission increases in subsection (b) of this section must account for all accumulated increases in actual emissions due to physical changes and changes in the method of operation occurring at the source since the applicable 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 fugitive emissions and emissions from insignificant activities.
(B) Emission increases due solely to increased use of equipment or facilities that existed or were permitted or approved to construct in accordance with OAR 340 division 210 during the applicable baseline period are not included, except 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 the method of 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~~c) 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 in nonattainment or maintenance areas or a federal major source in attainment or unclassified areas, if the source obtained permits to construct and operate after the applicable baseline period but has not undergone New Source Review.~~; 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.~~
(A) Subsection (c) of this section does not apply to PM2.5 and greenhouse gases.
(~~C~~B) Changes to the PSEL solely due to the availability of better emissions information are exempt from being considered an increase.
(d) If a portion of the netting basis or PSEL (or both) was set based on PTE because the source had not begun normal operations but was permitted or approved to construct and operate, that portion of the netting basis or PSEL (or both) must be excluded from the tests in subsections (a) and (b) of this section until the netting basis is reset as specified in the definitions of baseline emission rate and netting basis.
(~~d~~e) The following are not considered major modifications:
(A) Except as provided in subsection (c) of this section, 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~~B) Routine maintenance, repair, and replacement of components;
(~~D~~C) 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~~D) Use of alternate fuel or raw materials, that were available and the source was capable of accommodating in the baseline period.
(~~6~~71) "Major Source":
(a) Except as provided in subsection (b) of this section, 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.~~ The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.
(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) or (D) 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, except greenhouse gases, 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) Beginning July 1, 2011, a major stationary source of air pollutants, as defined by Section 302 of the Act, that directly emits or has the potential to emit 100 tpy or more of greenhouse gases and directly emits or has the potential to emit 100,000 tpy or more CO2e, including fugitive emissions.
(~~C~~D) 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 of this subsection 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.
(~~68~~72) "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~~73) "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~~4) "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~~5) "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 in OAR 340 division 224 MINUS any emissions reductions required by subsection (g) of this section.

(a) A netting basis will only be established for regulated pollutants subject to OAR 340 division 224 as specified in the definition of regulated pollutant.

~~(a) With the first permitting action for a source after July 1, 2002, the baseline emissions rate will be frozen 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 any 12 consecutive month period within the 24 months immediately preceding its designation as a~~

~~regulated 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 initial PM2.5 netting basis and PSEL for a source that was permitted prior to May 1, 2011 will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.
(A) The initial netting basis is the PM2.5 fraction of the PM10 netting basis in effect on May 1, 2011. DEQ may increase the initial PM2.5 netting basis by up to 5 tons if necessary to avoid exceedance of the PM2.5 significant emission rate as of May 1, 2011.
(B) Notwithstanding OAR 340-222-0041(2), the initial source specific PSEL for a source with PTE greater than or equal to the SER will be set equal to the PM2.5 fraction of the PM10 PSEL.
(c) The initial greenhouse gas netting basis and PSEL for a source will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.
(~~b~~d) Netting basis is zero for:
(A) ~~a~~Any regulated pollutant emitted from a source that first obtained permits to construct~~ed~~ and operate after the applicable baseline period for that regulated pollutant, and has not undergone New Source Review for that pollutant;
(B) Any pollutant that has a generic PSEL in a permit;
(C) Any source permitted as portable; ~~and~~ or
(D) Any source with a netting basis calculation resulting in a negative number.
(~~c~~e) 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~~f) 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. The netting basis reduction will be effective on the effective date of the rule, order, or permit condition requiring the reduction. The PSEL reduction will be effective on the compliance date of the rule, order, or permit condition.
(g) For permits issued after May 1, 2011 under New Source Review regulations in OAR 340 division 224, and where the netting basis initially equaled the potential to emit for a new or modified source, the netting basis will be reduced in accordance with the definition of actual emissions. Notwithstanding OAR 340-222-0041(2), this adjustment does not require a reduction in the PSEL.
(h) Emission reductions required by rule do not include emissions reductions achieved under OAR 340-226-0110 and 0120.
(~~e~~i) 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~~j) 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~~6) "Nitrogen Oxides" or "NOx" means all oxides of nitrogen except nitrous oxide.
(7~~3~~7) "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.

(748) "Nonattainment Pollutant" means a pollutant for which an area is designated a nonattainment area.
(759) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.
(7680) "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.
(7781) "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.
(7882) "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.
(7983) "Oregon Title V Operating Permit program" means a program approved by the Administrator under 40 CFR Part 70.
(804) "Oregon Title V Operating Permit program source" means any source subject to the permitting requirements, OAR 340 division 218.
(85) “Ozone Precursor” means nitrogen oxides and volatile organic compounds as measured by an applicable reference method in accordance with the Department's Source Sampling Manual(January, 1992) or as measured by an EPA reference method in 40 CFR Part 60, appendix A or as measured by a material balance calculation for VOC as appropriate.
(816) "Ozone Season" means the contiguous 3 month period during which ozone exceedances typically occur (i.e., June, July, and August).
(827) "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.
(838) "Permit" means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.
(849) "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.
(8590) "Permit revision" means any permit modification or administrative permit amendment.
(8691) "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.
(8792) "Permittee" means the owner or operator of the facility, authorized by the ACDP or the Oregon Title V Operating Permit to operate the source.

(8893) "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.
(8994) "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.
(905) "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.
(916) "PM2.5":
(a) When used in the context of 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 as measured by conditional EPA reference test methods 201A and 202 in 40 CFR Part 51, appendix M. CTM-040 (EPA Emission Measurement Center) and a reference method based on 40 CFR Part 52, Appendix M.
(b) 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 EPA reference methods in 40 CFR Part 60, appendix A.
(bc) 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.
(97) "PM2.5 fraction" means the the fraction of PM2.5 to PM10 for each emissions unit that is included in the netting basis and PSEL.
(928) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated air pollutant.
(939) "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.
(94100) "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.

(~~95~~101) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.
(~~96~~102) "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.
(~~97~~103) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 52, 60, 61 or 63.
(~~98~~104) "Regional Agency" means Lane Regional Air Protection Agency.
(~~99~~105) "Regulated air pollutant" or "Regulated Pollutant":
(a) Except as provided in subsections (b) and(c) of this ~~rule~~section, means:
(A) Nitrogen oxides or any VOCs;
(B) Any pollutant for which a national ambient air quality standard has been promulgated, including any precursors to such pollutants;
(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; and
(F) Greenhouse Gases.
(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, regulated ~~any~~ pollutant does not include any pollutant listed in divisions 244 and 246 ~~under OAR 340-244-0040 or 340-244-0230 is not a regulated pollutant~~, unless the pollutant is listed in OAR 340 division 200 Table 2 (significant emission rates).
(10~~0~~6) "Renewal" means the process by which a permit is reissued at the end of its term.
(10~~1~~7) "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 ~~D~~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.

(1028) "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.
(1039) "Section 111" means section 111 of the FCAA which includes Standards of Performance for New Stationary Sources (NSPS).
(1104) "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.
(11105) "Section 112" means section 112 of the FCAA which contains regulations for Hazardous Air Pollutants (HAP).
(11206) "Section 112(b)" means subsection 112(b) of the FCAA which includes the list of hazardous air pollutants to be regulated.
(10713) "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.
(10814) "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.
(10915) "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.
(1106) "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA which requires enhanced monitoring and submission of compliance certifications for major sources.
(1117) "Section 129" means section 129 of the FCAA which requires the EPA to establish emission standards and other requirements for solid waste incineration units.
(1128) "Section 129(e)" means subsection 129(e) of the FCAA which requires solid waste incineration units to obtain Oregon Title V Operating Permits.
(1139) "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.
(11420) "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.
(11521) "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.
(11622) "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.
(11723) "Section 184" means section 184 of the FCAA which contains regulations for the control of interstate ozone air pollution.
(11824) "Section 302" means section 302 of the FCAA which contains definitions for general and administrative purposes in the Act.

(1~~19~~25) "Section 302(j)" means subsection 302(j) of the FCAA which contains definitions of "major stationary source" and "major emitting facility."
(12~~0~~6) "Section 328" means section 328 of the FCAA which contains regulations for air pollution from outer continental shelf activities.
(12~~1~~7) "Section 408(a)" means subsection 408(a) of the FCAA which contains regulations for the Title IV permit program.
(12~~2~~8) "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.
(12~~3~~9) "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.
(1~~24~~30) "Section 504(e)" means subsection 504(e) of the FCAA which contains regulations for permit requirements for temporary sources.
(1~~25~~31) "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.
(1~~26~~32) "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. This provision does not apply to greenhouse gas emissions.
(1~~27~~33) "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.
(134) "Small scale local energy project" means:
(a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or indirectly uses or enables the use of, by the owner or operator, renewable resources including, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to produce energy, including heat, electricity and substitute fuels, to meet a local community or regional energy need in this state;

(b) A system, mechanism or series of mechanisms located primarily in Oregon or providing substantial benefits to Oregon that directly or indirectly conserves energy or enables the conservation of energy by the owner or operator, including energy used in transportation;
(c) A recycling project;
(d) An alternative fuel project;
(e) An improvement that increases the production or efficiency, or extends the operating life, of a system, mechanism, series of mechanisms or project otherwise described in this section of this rule, including but not limited to restarting a dormant project;
(f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility that directly or indirectly reduces the amount of energy needed for the construction and operation of the facility and that meets the sustainable building practices standard established by the State Department of Energy by rule; or
(g) A project described in subsections (a) to (f) of this section, whether or not the existing project was originally financed under ORS 470, together with any refinancing necessary to remove prior liens or encumbrances against the existing project.
(h) A project described in subsections (a) to (g) of this section that conserves energy or produces energy by generation or by processing or collection of a renewable resource.

(1~~28~~35) "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~~29~~36) "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~~7) "Source Test" means the average of at least three test runs conducted in accordance with the Department's Source Sampling Manual.

(13~~1~~8) "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~~9) "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.

(1~~33~~40) "Stationary source" means any building, structure, facility, or installation at a source that emits or may emit any regulated air pollutant.

(1~~3~~41) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.

(1354~~2~~) "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.

(1364~~3~~) "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.

(1374~~4~~) "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).

(1384~~5~~) "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.

(1394~~6~~) "Unassigned Emissions" means the amount of emissions that are in excess of the PSEL but less than the Netting Basis.

(140~~7~~) "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.

(141~~8~~) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment that may cause excess emissions.

(142~~9~~) "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.

(1435~~0~~) "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, propylene 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.

(1~~44~~51) "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: The ~~T~~ttables referenced in this rule are ~~available from the agency~~not included in the rule text. Click here for a PDF copy of the tables.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: [DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93]; [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 340-020-0033.04; 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 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989, f. & cert. ef. 6-26-89; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 7-1992, f. & cert. ef. 3-30-92; 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 340-020-0145, 340-020-0225, 340-020-0305, 340-020-0355, 340-020-0460 & 340-020-0520; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 12-1995, f. & cert. ef. 5-23-95; 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 9-1997, f. & cert. ef. 5-9-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0205, 340-028-0110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 10-2008, f. & cert .ef. 8-25-08

340-200-0025
Abbreviations and Acronyms
(1) "ACDP" means Air Contaminant Discharge Permit.
(2) "ACT" means Federal Clean Air Act.
(3) "AE" means Actual Emissions.
(4) "AICPA" means Association of Independent Certified Public Accountants.
(5) "AQCR" means Air Quality Control Region.
(6) "AQMA" means Air Quality Maintenance Area.
(7) "ASME" means American Society of Mechanical Engineers.
(8) "ASTM" means American Society for Testing & Materials.
(9) "ATETP" means Automotive Technician Emission Training Program.
(10) "AWD" means all wheel drive.
(11) "BACT" means Best Available Control Technology.
(12) "BLS" means black liquor solids.
(13) "CAA" means Clean Air Act
(14) "CAR" means control area responsible party.
(15) "CBD" means central business district.
(16) "CCTMP" means Central City Transportation Management Plan.
(17) "CEM" means continuous emissions monitoring.
(18) "CEMS" means continuous emission monitoring system.
(19) "CERCLA" means Comprehensive Environmental Response Compensation and Liability Act.

(20) "CFRMS" means continuous flow rate monitoring system.
(21) "CFR" means Code of Federal Regulations.
(22) "CMS" means continuous monitoring system.
(23) "CO" means carbon monoxide.
(24) "CO2e" means carbon dioxide equivalent.
(245) "COMS" means continuous opacity monitoring system.
(256) "CPMS" means continuous parameter monitoring system.
(267) "DEQ" means Department of Environmental Quality.
(278) "DOD" means Department of Defense.
(289) "EA" means environmental assessment.
(2930) "ECO" means employee commute options.
(301) "EEAF" means emissions estimate adjustment factor.
(312) "EF" means emission factor.
(323) "EGR" means exhaust gas re-circulation.
(334) "EIS" means Environmental Impact Statement
(345) "EPA" means Environmental Protection Agency.
(356) "EQC" means Environmental Quality Commission.
(367) "ESP" means electrostatic precipitator.
(378) "FCAA" means Federal Clean Air Act.
(389) "FHWA" means Federal Highway Administration.
(3940) "FONSI" means finding of no significant impact.
(401) "FTA" means Federal Transit Administration.
(412) "GFA" means gross floor area.
(43) "GHG" means greenhouse gases.
(424) "GLA" means gross leasable area.
(435) "GPM" means grams per mile.
(446) "gr/dscf" means grains per dry standard cubic foot.
(457) "GTBA" means grade tertiary butyl alcohol.
(468) "GVWR" means gross vehicle weight rating.
(479) "HAP" means hazardous air pollutant.
(4850) "HEPA" means high efficiency particulate air.
(4951) "HMIWI" means hospital medical infectious waste incinerator.
(502) "I/M" means inspection and maintenance program.
(513) "IG" means inspection grade.
(524) "IRS" means Internal Revenue Service.
(535) "ISECP" means indirect source emission control program.
(546) "ISTEA" means Intermodal Surface Transportation Efficiency Act.
(557) "LAER" means Lowest Achievable Emission Rate.
(568) "LDT2" means light duty truck 2.
(579) "LIDAR" means laser radar; light detection and ranging.
(5860) "LPG" means liquefied petroleum gas.
(5961) "LRAPA" means Lane Regional Air Protection Agency.
(602) "LUCS" means Land Use Compatibility Statement.
(613) "MACT" means Maximum Achievable Control Technology.
(624) "MPO" means Metropolitan Planning Organization.
(635) "MTBE" means methyl tertiary butyl ether.

(646) "MWC" means municipal waste combustor.
(657) "NAAQS" means National Ambient Air Quality Standards.
(668) "NEPA" means National Environmental Policy Act.
(679) "NESHAP" means National Emissions Standard for Hazardous Air Pollutants.
(6870) "NIOSH" means National Institute of Occupational Safety & Health.
(6971) "NOx" means nitrogen oxides.
(702) "NSPS" means New Source Performance Standards.
(713) "NSR" means New Source Review.
(724) "NSSC" means neutral sulfite semi-chemical.
(735) "O3" means ozone.
(746) "OAR" means Oregon Administrative Rules.
(757) "ODOT" means Oregon Department of Transportation.
(768) "ORS" means Oregon Revised Statutes.
(779) "OSAC" means orifice spark advance control.
(7880) "OSHA" means Occupational Safety & Health Administration.
(7981) "PCDE" means pollution control device collection efficiency.
(802) "PEMS" means predictive emission monitoring system.
(813) "PM" means particulate matter.
(824) "PM10" means particulate matter less than 10 microns.
(835) “PM2.5” means particulate matter less than 2.5 microns.
(846) "POTW" means Publicly Owned Treatment Works.
(857) "POV" means privately owned vehicle.
(868) "PSD" means Prevention of Significant Deterioration.
(879) "PSEL" means Plant Site Emission Limit.
(8890) "QIP" means quality improvement plan.
(8991) "RACT" means Reasonably Available Control Technology.
(902) "RVCOG" means Rogue Valley Council of Governments.
(913) "RWOC" means running weighted oxygen content.
(924) "SKATS" means Salem-Kaiser Area Transportation Study.
(935) "scf" means standard cubic feet.
(946) "SCS" means speed control switch.
(957) "SD" means standard deviation.
(968) "SIP" means State Implementation Plan.
(979) "SO2" means sulfur dioxide.
(98100) "SOCMI" means synthetic organic chemical manufacturing industry.
(99101) "SOS" means Secretary of State.
(1002) "TAC" means thermostatic air cleaner.
(1013) "TACT" means Typically Achievable Control Technology.
(1024) "TCM" means transportation control measures.
(1035) "TCS" means throttle control solenoid.
(1046) "TIP" means Transportation Improvement Program.
(1057) "TRS" means total reduced sulfur.
(1068) "TSP" means total suspended particulate matter.
(1079) "UGA" means urban growth area.
(10810) "UGB" means urban growth boundary.
(10911) "US DOT" means United States Department of Transportation.

(1102) "UST" means underground storage tanks.
(1113) "UTM" means universal transverse mercator.
(1124) "VIN" means vehicle identification number.
(1135) "VMT" means vehicle miles traveled.
(1146) "VOC" means volatile organic compounds.
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 8-2007, f. & cert. ef. 11-8-07

340-200-0040
State of Oregon Clean Air Act Implementation Plan
(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, **42 U.S.C.A 7401 to 7671q**.
(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on February April 1721, 2011.
(3) Notwithstanding any other requirement contained in the SIP, the Department may:
(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after the Department has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 2002); and
(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.
NOTE: Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, the Department shall enforce the more stringent provision.
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.035
Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef.

3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996(Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000 f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2008, f. & cert. ef. 3-20-08; DEQ 11-2008, f. & cert. ef. 8-29-08; DEQ 12-2008, f. & cert. ef. 9-17-08; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 15-2008, f. & cert. ef 12-31-08; DEQ 3-2009, f. & cert. ef. 6-30-09; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 2-2010, f. & cert. ef. 3-5-10; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 14-2010, f. & cert. ef. 12-10-10

TABLE 1
OAR 340-200-0020
SIGNIFICANT AIR QUALITY IMPACT

Pollutant	Averaging Time	Air Quality Area Designation		
		Class I	Class II	Class III
SO_2 ($\mu g/m^3$)*	Annual	0.10	1.0	1.0
	24-hour	0.20	5.0	5.0
	3-hour	1.0	25.0	25.0
PM_{10} ($\mu g/m^3$)	Annual	0.20	0.2	0.2
	24-hour	0.30	1.0	1.0
$PM_{2.5}$ ($\mu g/m^3$)	Annual	0.06	0.3	0.3
	24-hour	0.07	1.2	1.2
NO_2 ($\mu g/m^3$)	Annual	0.10	1.0	1.0
CO (mg/m^3)**	8 hour	---	0.5	0.5
	1-hour	---	2.0	2.0

* micrograms/cubic meter
** milligrams/cubic meter

~~**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***
Greenhouse Gases (CO_2e)	75,000 tons/year
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 tons/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}	~~4,500 Kilograms~~ (5.0 tons)	~~23 Kilograms~~ (50.0 lbs.)

TABLE 4
OAR 340-200-0020(31)
De Minimis Emission Levels

Pollutant	De minimis (tons/year, except as noted)
Greenhouse Gases (CO2e)	2,756
CO	1
NO_x	1
SO_2	1
VOC	1
PM	1
PM_{10} (except Medford AQMA)	1
PM_{10}/$PM_{2.5}$ (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 OAR 340-200-0020(56) Generic PSELs	
Pollutant	**Generic PSEL (tons/year, except as noted)**
GreenhouseGases (CO2e)	74,000
CO	99
NO_x	39
SO_2	39
VOC	39
PM	24
PM_{10} (except Medford AQMA)	14
$PM_{10}/PM_{2.5}$ (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

DIVISION 202

AMBIENT AIR QUALITY STANDARDS AND PSD INCREMENTS

340-202-0010
Definitions
The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.
(1) "Ambient Air" means that portion of the atmosphere external to buildings, to which the general public has access.
(2) "Ambient Air Monitoring Site Criteria" means the general probe siting specifications as set forth in **Appendix E** of **40 CFR 58**.
(3) "Approved Method" means an analytical method for measuring air contaminant concentrations described or referenced in **40 CFR 50** and Appendices. These methods are approved by the Department of Environmental Quality.
(4) "Baseline Concentration" means:
(a) Except as provided in subsection (c), the ambient concentration level for sulfur dioxide and PM_{10} 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 PM_{10} that existed during the calendar year 1993. The Department allows the use of a prior time period if the Department determines that it is more representative of normal emissions.
(d) For PM10 in the Medford-Ashland AQMA: the ambient PM10 concentration levels that existed during the year that EPA redesignates the AQMA to attainment for PM10.
(e) The ambient concentration level for PM2.5 that existed in an area during the calendar year 2007.
(f) If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for the years specified in subsections (a) through (e) of this section.
(5) "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
(6) "Indian Reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
(7) "Oregon Standard Method" means any method of sampling and analyzing for an air contaminant approved by the Department. Oregon standard methods are kept on file by the Department.

(8) "PPM" means parts per million by volume. It is a dimensionless unit of measurement for gases that expresses the ratio of the volume of one component gas to the volume of the entire sample mixture of gases.
[**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.]
[Publications: The publications referenced in this rule are available from the agency.]
Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 18-1979, f. & ef. 6-22-79; DEQ 25-1981, f. & ef. 9-8-81; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1993, f. & cert. ef. 11-4-93; Renumbered from 340-031-0105; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0005; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

Ambient Air Quality Standards

340-202-0060
Suspended Particulate Matter
Concentrations of the fraction of suspended particulate that is equal to or less than ten microns in aerodynamic diameter in ambient air as measured by an approved method must not exceed:
~~(1) 50 micrograms of PM_{10} per cubic meter of air as an annual arithmetic mean. This standard is attained when the expected annual arithmetic mean concentration, as determined in accordance with **Appendix K of 40 CFR 50** is less than or equal to 50 micrograms per cubic meter at any site.~~
(~~2~~1) 150 micrograms of PM_{10} per cubic meter of air as a 24-hour average concentration for any calendar day. This standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter as determined in accordance with **Appendix K of 40 CFR 50** is equal to or less than one at any site.
Concentrations of the fraction of suspended particulate that is equal to or less than 2.5 microns in aerodynamic diameter in ambient air as measured by an approved method must not exceed:
(~~3~~2) 35 micrograms of $PM_{2.5}$ per cubic meter of air as a 3-year average of annual 98th percentile 24-hour average values recorded at each monitoring site. This standard is attained when the 3-year average of annual 98^{th} percentile 24-hour average concentrations is equal to or less than 35 micrograms per cubic meter as determined in accordance with **Appendix N of 40 CFR 50**.
(~~4~~3) 15 micrograms of $PM_{2.5}$ per cubic meter of air as a 3-year average of the annual arithmetic mean. This standard is attained when the annual arithmetic mean concentration is equal to or less than 15 micrograms per cubic meter as determined in accordance with **Appendix N of 40 CFR 50**.
[**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.]
[Publications: The publication(s) referenced in this rule is available from the agency.]
Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0015; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

Prevention of Significant Deterioration Increments

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 must be limited to those set out in **Table 1**.

OAR 340-202-0210 Table 1 MAXIMUM ALLOWABLE INCREASE Micrograms per cubic meter	
CLASS I	
Pollutant	*Micrograms per cubic meter*
Particulate matter:	
[1] PM2.5, Annual arithmetic mean	1
[1]PM2.5, 24-hour maximum	2
PM10, Annual arithmetic mean	4
PM10, 24-hour maximum	8
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:	
[1]PM2.5, Annual arithmetic mean	4
[1]PM2.5, 24-hour maximum	9
PM10, Annual arithmetic mean	

[1] $PM_{2.5}$ Increments will become effective on October 20, 2011.

PM10, 24-hour maximum	17 30
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:	
[1]PM2.5, Annual arithmetic mean	8
[1]PM2.5, 24-hour maximum	18
PM10, Annual arithmetic mean	34
PM10, 24-hour maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

(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

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
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
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	34

~~PM10, 24-hour maximum~~	~~60~~
~~Sulfur dioxide:~~	
~~Annual arithmetic mean~~	~~40~~
~~24-hour maximum~~	~~182~~
~~3-hour maximum~~	~~700~~
~~Nitrogen dioxide:~~	
~~Annual arithmetic mean~~	~~50~~

DIVISION 215

GREENHOUSE GAS REPORTING REQUIREMENTS

340-215-0060
Greenhouse Gas Reporting Fees
(1) Any person required to register and report under OAR 340-215-0030(1)(a) must submit greenhouse gas reporting fees to the Department as specified in OAR 340-220-0050(4). The fees must be received by the Department within 30 days after the Department mails the fee invoice.
(2) Any person required to register and report under OAR 340-215-0030(1)(b)–(c) must submit greenhouse gas reporting fees to the Department as specified in OAR Chapter 340, Division 216, Table 2, Part 3. The fees must be received by the Department within 30 days after the Department mails the fee invoice.
Stat. Auth.: 468A.050
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10

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 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.

(6) Subject to the requirements in this Division, the Lane Regional Air Protection Agency is designated by the Commission as the permitting agency to implement the Air Contaminant Discharge Permit program within its area of jurisdiction. The Regional Agency's program is

subject to Department oversight. The requirements and procedures contained in this Division pertaining to the Air Contaminant Discharge Permit program shall be used by the Regional Agency to implement its permitting program until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.

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: The ~~T~~tables referenced in this rule are not included in the rule text. Click here for a PDF copy of the 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; Administrative correction 7-27-10; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11

340-216-0025
Types of Permits

(1) **Construction ACDP**:

(a) A Construction ACDP may be used for approval of Type 3 changes specified in OAR 340-210-0220 at a source subject to the ACDP permit requirements in this division.

(b) A Construction ACDP is required for Type 3 changes specified in OAR 340-210-0225 at sources subject to the Oregon Title V Operating Permit requirements.

(2) **General ACDP**. A General ACDP is for a category of sources for which individual permits are unnecessary in order to protect the environment. An owner or operator of a source may be assigned to a General ACDP if the Department has issued a General ACDP for the source category:

(a) The source meets the qualifications specified in the General ACDP;

(b) The Department determines that the source has not had ongoing, reoccurring, or serious compliance problems; and

(c) The Department determines that a General ACDP would appropriately regulate the source.

(3) **Short Term Activity ACDP**. A Short Term Activity ACDP is a letter permit that authorizes the activity and includes any conditions placed upon the method or methods of operation of the activity. The Department may issue a Short Term Activity ACDP for unexpected or emergency activities, operations, or emissions.

(4) **Basic ACDP**. A Basic ACDP is a permit that authorizes the regulated source to operate in conformance with the rules contained in OAR 340 divisions 200 to 268.

(a) Owners and operators of sources and activities listed in Table 1, Part A of OAR 340-216-0020 must at a minimum obtain a Basic ACDP.
(b) Any owner or operator of a source required to obtain a Basic ACDP may obtain either a Simple or Standard ACDP.
(5) **Simple ACDP**. A Simple ACDP is a permit that contains:
(a) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements;
(b) Generic PSELs for all pollutants emitted at more than the deminimis level in accordance with OAR 340 division 222;
(c) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and
(d) A permit duration not to exceed 5 years.
(6) **Standard ACDP**:
(a) A Standard ACDP is a permit that contains:
(A) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements;
(B) Source specific PSELs or Generic PSELs, whichever are applicable, as specified in OAR 340 division 222;
(C) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and
(D) A permit duration not to exceed 5 years.
(b) All owners and operators of sources and activities listed in Table 1, Part C of OAR 340-216-0020 must obtain a Standard ACDP.
(c) Owners or operators of sources and activities listed in Table 1, Part B of OAR 340-216-0020 which do not qualify for a General ACDP or Simple ACDP must obtain a Standard ACDP.
(d) Any owner or operator of a source not required to obtain a Standard ACDP may obtain a Standard 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: The ~~T~~tables referenced in this rule are ~~available from the agency~~not included in the rule text. Click here for a PDF copy of the tables.]
Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468.020 & ORS 468A.025
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; DEQ14-1999, 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

340-216-0040
Application Requirements

(1) New Permits. Except for Short Term Activity ACDPs, any person required to obtain a new ACDP must provide the following general information, as applicable, using forms provided by the Department in addition to any other information required for a specific permit type:
(a) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business (Standard Industrial Classification (SIC) code);
(b) The name and phone number of a local person responsible for compliance with the permit;
(c) The name of a person authorized to receive requests for data and information;
(d) A description of the production processes and related flow chart;
(e) A plot plan showing the location and height of air contaminant sources. The plot plan must also indicate the nearest residential or commercial property;
(f) The type and quantity of fuels used;
(g) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, or monthly and yearly rates, showing calculation procedures;
(h) Any information on pollution prevention measures and cross-media impacts the applicant wants the Department to consider in determining applicable control requirements and evaluating compliance methods;
(i) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;
(j) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements in accordance with OAR 340-226-0120(1) and (2);
(k) A Land Use Compatibility Statement signed by a local (city or county) planner either approving or disapproving construction or modification of the source, if required by the local planning agency; and
(l) Any other information requested by the Department.
(2) Renewal Permits. Except for Short Term Activity ACDPs, any person required to renew an existing permit must submit the information identified in section (1) using forms provided by the Department, unless there are no significant changes to the permit. If there are significant changes, the applicant must provided the information identified in section (1) only for those changes. Where there are no significant changes to the permit , the applicant may use a streamlined permit renewal application process by providing the following information:
(a) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business (Standard Industrial Classification (SIC) code) using a form provided by the Department; and
(b) A marked up copy of the previous permit indicating minor changes along with an explanation for each requested change.
(3) Permit Modifications. For Simple and Standard ACDP modifications, the applicant must provided the information in section (1) relevant to the requested changes to the permit and a list of any new requirements applicable to those changes.
(4) Any owner or operator who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.
(45) The department must receive the application at least 60 days before a permit or modified permit is needed.

(~~5~~6) The application must be completed in full and signed by the applicant or the applicant's legally authorized representative.
(~~6~~7) Two copies of the application are required, unless otherwise requested by the Department. At least one of the copies must be a paper copy, but the others may be in any other format, including electronic copies, upon approval by the Department.
(~~7~~8) A copy of NSR permit applications and supplemental information must also be submitted directly to the EPA.
(~~8~~9) The name of the applicant must be the legal name of the facility or the owner's agent or the lessee responsible for the operation and maintenance of the facility. The legal name must be registered with the Secretary of State Corporations Division.
(~~9~~10) All applications must include the appropriate fees as specified in Table 2 of OAR 340-216-0020.
(1~~0~~1) Applications that are obviously incomplete, unsigned, improperly signed, or lacking the required exhibits or fees will be rejected by the Department and returned to the applicant for completion.
(1~~1~~2) Within 15 days after receiving the application, the Department will preliminarily review the application to determine the adequacy of the information submitted:
(a) If the Department determines that additional information is needed, the Department will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request;
(b) If, in the opinion of the Department, additional measures are necessary to gather facts regarding the application, the Department will notify the applicant that such measures will be instituted along with the timetable and procedures to be followed. The application will not be considered complete for processing until the necessary additional fact-finding measures are completed. When the information in the application is deemed adequate for processing, the Department will so notify the applicant .
(1~~2~~3) If at any time while processing the application, the Department determines that additional information is needed, the Department will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request.
(1~~3~~4) If, upon review of an application, the Department determines that a permit is not required, the Department will so notify the applicant in writing. Such notification is a final action by the Department on the application.
[**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: The ~~T~~table~~(s)~~ referenced in this rule ~~is not printed in the OAR Compilation. Copies are available from the agency~~are not included in the rule text. Click here for a PDF copy of the tables.]
Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 42, f. 4-5-72, ef. 4-15-72; 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 20-1979, f. & ef. 6-29-79; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993,

f. & cert. ef. 9-24-93; Renumbered from 340-020-0175; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1770; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0020 & 340-014-0030

340-216-0052
Construction ACDP

(1) Purpose. A Construction ACDP is a permit for approval of Type 3 construction or modification changes as specified in OAR 340-210-0220. The Construction ACDP includes requirements for the construction or modification of stationary sources or air pollution control equipment and does not by itself provide authorization to operate the new construction or modification. A new or modified Standard ACDP or Oregon Title V Operating Permit is required before operation of the new construction or modification. A Construction ACDP may be used for the following situations:

(a) For complex construction or modification projects that require an extended period of time to construct, the Construction ACDP may provide construction approval faster than issuance of a Standard ACDP or modified Standard ACDP because the operating requirements would not need to be included in the permit.

(b) For Oregon Title V Operating Permit sources, the Construction ACDP may include the requirements of OAR 340-218-0050 and follow the external review procedures in 340-218-0210 and 340-218-0230 so that the requirements may later be incorporated into the Oregon Title V Operating Permit by an administrative amendment. If the applicant elects to incorporate the Construction ACDP by administrative amendment, all of the application submittal, permit content, and permit issuance requirements of OAR 340 division 218 must be met for the Construction ACDP

(2) Application requirements. Any person requesting a Construction ACDP must:

(a) Submit an application in accordance with OAR 340-216-0040 and provide the information specified in 340-216-0040(1) as it relates to the proposed new construction or modification; and

(b) Provide a list of any applicable requirements related to the new construction or modification.

(3) Fees. Applicants for a Construction ACDP must pay the fees set forth in Table 2 of OAR 340-216-0020.

(4) Permit content. A Construction ACDP must include at least the following:

(a) A requirement that construction must commence within 18 months after the permit is issued;

(b) A requirement to construct in accordance with approved plans;

(c) A requirement to comply with all applicable requirements;

(d) Emission limits for affected stationary sources;

(e) Performance standards for affected stationary sources and air pollution control equipment;

(f) Performance test requirements;

(g) Monitoring requirements, if specialized equipment is required (e.g., continuous monitoring systems);

(h) Notification and reporting requirements (construction status reports, startup dates, source test plans, CEMS performance specification testing plans, etc.);

(i) General ACDP conditions for incorporating generally applicable requirements;

(j) A requirement to modify the operating permit before commencing operation of the new construction or modification;

(k) A permit expiration date of no more than 5 years; and

(l) Oregon Title V Permit requirements as specified in OAR 340-218-0050, if the applicant requests the external review procedures in OAR 340-218-0210 and 340-218-0230.
(5) Permit issuance procedures:
(a) A Construction ACDP requires public notice in accordance with OAR 340 division 209 for Category III permit actions.
(b) For sources subject to the Oregon Title V Operating Permit program, the applicant may ask for the external review procedures in OAR 340-218-0210 and 340-218-0230 in addition to the requirements of OAR 340 division 209 to allow the Construction ACDP to be incorporated into the Oregon Title V Operating Permit later by an administrative amendment provided the requirements of (1)(b) are met.
(c) Issuance of a modified Construction ACDP requires one of the following, as applicable:
(A) Non-technical modifications and non-NSR Basic and Simple technical modifications require public notice in accordance with OAR 340 division 209 for Category I permit actions.
(B) Non-NSR/PSD Moderate and Complex technical modifications require public notice in accordance with OAR 340 division 209 for Category II permit actions.
[ED. NOTE: The ~~T~~table~~(s)~~ referenced in this rule ~~is not printed in the OAR Compilation. Copies are available from the agency~~are not included in the rule text. Click here for a PDF copy of the tables.]
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-216-0054
Short Term Activity ACDPs
(1) Application requirements. Any person requesting a Short Term Activity ACDP must apply in writing, fully describing the emergency and the proposed activities, operations, and emissions. The application must include the fees specified in section (2) of this rule.
(2) Fees. Applicants for a Short Term Activity ACDP must pay the fees set forth in Table 2 of 340-216-0020.
(3) Permit content.
(a) This permit includes conditions that ensure adequate protection of property and preservation of public health, welfare, and resources.
(b) A Short Term Activity ACDP does not include a PSEL for any air contaminants discharged as a result of the permitted activity.
(c) A Short Term Activity ACDP automatically terminates 60 days from the date of issuance and may not be renewed.
(d) A Short Term Activity ACDPs will be properly conditioned to ensure adequate protection of property and preservation of public health, welfare and resources.
(4) Permit issuance procedures. A Short Term Activity ACDP requires public notice in accordance with OAR 340 division 209 for Category I permit actions.
[ED. NOTE: The ~~T~~table~~(s)~~ referenced in this rule ~~is not printed in the OAR Compilation. Copies are available from the agency~~are not included in the rule text. Click here for a PDF copy of the tables.]
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A

Hist.: DEQ 42, f. 4-5-72, ef. 4-15-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0050

340-216-0056
Basic ACDPs
(1) Application requirements. Any person requesting a Basic ACDP must submit an application in accordance with OAR 340-216-0040 and provide the information specified in OAR 340-216-0040(1).
(2) Fees. Applicants for a new Basic ACDP must pay the fees set forth in **Table 2** of 340-216-0020.
(3) Permit content:
(a) A Basic ACDP contains only the most significant and relevant rules applicable to the source;
(b) A Basic ACDP does not contain a PSEL;
(c) A Basic ACDP requires a simplified annual report be submitted to the Department; and
(d) A Basic ACDP may be issued for a period not to exceed ten years.
(4) Permit issuance procedures. A Basic ACDP requires public notice in accordance with OAR 340 division 209 for Category I permit actions.
[ED. NOTE: The ~~T~~tables referenced in this rule are ~~available from the agency~~not included in the rule text. Click here for a PDF copy of the tables.]
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-216-0060
General Air Contaminant Discharge Permits
(1) Applicability.
(a) The Department may issue a General ACDP under the following circumstances:
(A) There are several sources that involve the same or substantially similar types of operations;
(B) All requirements applicable to the covered operations can be contained in a General ACDP;
(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP; and
(D) The pollutants emitted are of the same type for all covered operations.
(b) Permit content. Each General ACDP must include the following:
(A) All relevant requirements for the operations covered by the General ACDP;
(B) Generic PSELs for all pollutants emitted at more than the deminimis level in accordance with OAR 340, division 222;
(C) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the PSEL and other applicable emissions limits and standards; and
(D) A permit expiration date not to exceed 10 years from the date of issuance.
(c) Permit issuance procedures: A new General ACDP requires public notice and opportunity for comment in accordance with OAR 340 division 209 for Category III permit actions. A reissued General ACDP or a modification to a General ACDP requires public notice and opportunity for comment in accordance with OAR 340 division 209 for Category II permit actions. All General ACDPs are on file and available for review at the Department's headquarters.
(2) Source assignment:

(a) Application requirements. Any person requesting that a source be assigned to a General ACDP must submit a written application in accordance with OAR 340-216-0040 that includes the information in OAR 340-216-0040(1), specifies the General ACDP source category, and shows that the source qualifies for the General ACDP.
(b) Fees. Applicants must pay the fees set forth in Table 2 of OAR 340-216-0020. The fee class for each General ACDP is as follows:
(A) Hard chrome platers -- Fee Class Three;
(B) Decorative chrome platers -- Fee Class Two;
(C) Halogenated solvent degreasers -- batch cold -- Fee Class Two;
(D) Halogenated solvent degreasers -- batch vapor and in-line -- Fee Class Two;
(E) Halogenated solvent degreasers -- batch cold, batch vapor, and in-line -- Fee Class Two;
(F) Perchloroethylene dry cleaners -- Fee Class Six;
(G) Asphalt plants -- Fee Class Three;
(H) Rock crushers -- Fee Class Two;
(I) Ready-mix concrete -- Fee Class One;
(J) Sawmills, planing mills, millwork, plywood manufacturing and veneer drying -- Fee Class Three;
(K) Boilers -- Fee Class Two;
(L) Crematories -- Fee Class Two;
(M) Grain elevators -- Fee Class One;
(N) Prepared feeds, flour, and cereal -- Fee Class One;
(O) Seed cleaning -- Fee Class One;
(P) Coffee roasters -- Fee Class One;
(Q) Bulk gasoline plants -- Fee Class One;
(R) Electric power generators -- Fee Class Two;
(S) Clay ceramics -- Fee Class One;
(T) Hospital sterilizers -- Fee Class Four;
(U) Secondary nonferrous metals -- Fee Class One;
(V) Gasoline dispensing facilities -- stage I -- Fee Class Five;
(W) Gasoline dispensing facilities -- stage II -- Fee Class Four;
(X) Wood preserving -- Fee Class Four;
(Y) Metal fabrication and finishing -- with two or more of the following operations -- Fee Class Two;
(i) Dry abrasive blasting performed in a vented enclosure or of objects greater than 8 feet (2.4 meters) in any one dimension that uses materials that contain MFHAP or has the potential to emit MFHAP;
(ii) Spray-applied painting operation using MFHAP containing paints;
(iii) Welding operation that uses materials that contain MFHAP or has the potential to emit MFHAP and uses 2,000 pounds or more per year of MFHAP containing welding wire and rod (calculated on a rolling 12-month basis);
(Z) Metal fabrication and finishing -- with only one of the operations listed in subparagraphs (2)(b)(Y)(i) through (iii) of this rule-- Fee Class One:
(AA) Metal fabrication and finishing -- with none of the operations listed in subparagraphs (2)(b)(Y)(i) through (iii) of this rule -- Fee Class Four;
(BB) Plating and polishing -- Fee Class One;
(CC) Surface coating operations -- Fee Class One;

(DD) Paint stripping -- Fee Class One;
(EE) Aluminum, copper, and nonferrous foundries -- Fee Class Two;
(FF) Paints and allied products manufacturing -- Fee Class Two;
(GG) Any General ACDP not listed above -- Fee Class One.
(c) Source assignment procedures:
(A) Assignment of a source to a General ACDP is a Category I permit action and is subject to the Category I public notice requirements in accordance with OAR 340, division 209.
(B) A person is not a permittee under the General ACDP until the Department assigns the General ACDP to the person.
(C) Assignments to General ACDPs and attachment(s) terminate when the General ACDP or attachment expires or is modified, terminated or revoked.
(D) Once a source has been assigned to a General ACDP, if the assigned General ACDP does not cover all requirements applicable to the source, the other applicable requirements must be covered by assignment to one or more General ACDP Attachments in accordance with OAR 340-216-0062, otherwise the source must obtain a Simple or Standard ACDP.
(E) A source requesting to be assigned to a General ACDP Attachment, in accordance with OAR 340-216-0062, for a source category in a higher annual fee class than the General ACDP the source is currently assigned to, must be reassigned to the General ACDP for the source category in the higher annual fee class.
(3) Department Initiated Modification. If the Department determines that the conditions have changed such that a General ACDP for a category needs to be modified, the Department may issue a new General ACDP for that category and assign all existing General ACDP permit holders to the new General ACDP.
(4) Rescission. In addition to OAR 340-216-0082 (Termination or Revocation of an ACDP), the Department may rescind an individual source's assignment to a General ACDP if the source no longer meets the requirements of this rule or the conditions of the permit, including, but not limited to a source having an ongoing, reoccurring or serious compliance problem. Upon rescinding a source's assignment to a General ACDP the Department will place the source on a Simple or Standard ACDP. The Department may also revoke a General ACDP or attachment or both if conditions, standards or rules have changed so the permit or attachment no longer meets the requirements of this rule.
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: The ~~T~~tables referenced in this rule are ~~available from the agency~~not included in the rule text. Click here for a PDF copy of the tables.]
Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468.020 & 468A.025
Hist.: DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1725; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 10-2001, f. & cert. ef. 8-30-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 2-2006, f. & cert. ef. 3-14-06; 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

340-216-0064
Simple ACDP
(1) Applicability.

(a) Sources and activities listed in Table 1, Part B of OAR 340-216-0020 that do not qualify for a General ACDP and are not required to obtain a Standard ACDP must, at a minimum, obtain a Simple ACDP.
(b) Any source required to obtain a Simple ACDP may obtain a Standard ACDP.
(c) The Department may determine that a source is ineligible for a Simple ACDP and must obtain a Standard ACDP based upon, but not limited to, the following considerations:
(A) The nature, extent, and toxicity of the source's emissions;
(B) The complexity of the source and the rules applicable to that source;
(C) The complexity of the emission controls and potential threat to human health and the environment if the emission controls fail;
(D) The location of the source; and
(E) The compliance history of the source.
(2) Application Requirements. Any person requesting a new, modified, or renewed Simple ACDP must submit an application in accordance with OAR 340-216-0040.
(3) Fees. Applicants for a new or modified Simple ACDP must pay the fees set forth in Table 2 of 340-216-0020. Annual fees for Simple ACDPs will be assessed based on the following:
(a) Low Fee -- A Source may qualify for the Low Fee if:
(A) the source is, or will be, permitted under only one of the following categories from OAR 340-216-0020 Table 1, Part B (category 25. Electric Power Generation, may be included with any category listed below):
(i) Category 7. Asphalt felt and coatings;
(ii) Category 13. Boilers and other fuel burning equipment;
(iii) Category 33. Galvanizing & Pipe coating;
(iv) Category 39. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr. metal charged (not elsewhere identified);
(v) Category 40. Gypsum products;
(vi) Category 45. Liquid Storage Tanks subject to OAR ~~D~~division 232;
(vii) Category 56. Non-Ferrous Metal Foundries 100 or more tons/yr. of metal charged;
(viii) Category 57. Organic or Inorganic Industrial Chemical Manufacturing;
(ix) Category 62. Perchloroethylene Dry Cleaning;
(x) Category 73. Secondary Smelting and/or Refining of Ferrous and Non-Ferrous Metals; or
(xi) Category 85. All Other Sources not listed in Table 1 which would have actual emissions, if the source were to operate uncontrolled, of 5 or more tons a year of direct PM2.5 or PM_{10} if located in a PM2.5 or PM_{10} non-attainment or maintenance area, or 10 or more tons of any single criteria pollutant in any part of the state; and
(B) The actual emissions from the 12 months immediately preceding the invoice date, and future projected emissions are less than 5 tons/yr. PM_{10} in a PM_{10} nonattainment or maintenance area, and less than 10 tons/yr. for each criteria pollutant; and
(C) The source is not considered an air quality problem or nuisance source by the Department.
(b) High Fee -- Any source required to have a Simple ACDP (OAR 340-216-0020 Table 1 Part B) that does not qualify for the Low Fee will be assessed the High Fee.
(c) If the Department determines that a source was invoiced for the Low Annual Fee but does not meet the Low Fee criteria outlined above, the source will be required to pay the difference between the Low and High Fees, plus applicable late fees in accordance with OAR 340-216-0020 Table 2. Late fees start upon issuance of the initial invoice. In this case, the Department will issue a new invoice specifying applicable fees.

(4) Permit Content.
(a) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements;
(b) Generic PSELs for all pollutants emitted at more than the deminimis level in accordance with OAR 340 division 222;
(c) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and
(d) A permit duration not to exceed 5 years
(5) Permit issuance procedures:
(a) Issuance of a new or renewed Simple ACDP requires public notice in accordance with OAR 340 division 209 for Category II permit actions.
(b) Issuance of a modification to a Simple ACDP requires one of the following procedures, as applicable:
(A) Non-technical and non-NSR/PSD Basic and Simple technical modifications require public notice in accordance with OAR 340, division 209 for Category I permit actions; or
(B) Issuance of non-NSR/PSD Moderate and Complex technical modifications require public notice in accordance with OAR 340 division 209 for Category II permit actions.
[ED. NOTE: The ~~T~~tables referenced in this rule are ~~available from the agency~~not included in the rule text. Click here for a PDF copy of the tables.]

340-216-0066
Standard ACDPs
(1) Application requirements. Any person requesting a new, modified, or renewed Standard ACDP must submit an application in accordance with OAR 340-216-0040 and include the following additional information as applicable:
(a) For new or modified Standard ACDPs that are not subject to NSR (OAR 340 division 224) but have emissions increases above the significant emissions rate, the application must include an analysis of the air quality and visibility (federal major sources only) impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts.
(b) For new or modified Standard ACDPs that are subject to NSR (OAR 340 division 224), the application must include the following additional information as applicable:
(A) A detailed description of the air pollution control equipment and emission reductions processes which are planned for the source or modification, and any other information necessary to determine that BACT or LAER technology, whichever is applicable, would be applied;
(B) An analysis of the air quality and visibility (federal major sources only) impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and
(C) An analysis of the air quality and visibility (federal major sources only) impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, which has occurred since January 1, 1978, in the area the source or modification would affect.
(2) Fees. Applicants for a Standard ACDP must pay the fees set forth in Table 2 of 340-216-0020.
(3) Permit content. A Standard ACDP is a permit that contains:
(a) all applicable requirements, including general ACDP conditions for incorporating generally applicable requirements;

(b) Source specific PSELs or Generic PSELs, whichever are applicable, as specified in OAR 340, division 222;
(c) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and
(d) A permit duration not to exceed 5 years.
(4) Permit issuance procedures.
(a) Issuance of a new or renewed Standard ACDP requires public notice as follows:
(A) For non-NSR permit actions, issuance of a new or renewed Standard ACDP requires public notice in accordance with OAR 340 division 209 for Category III permit actions for any increase in allowed emissions, or Category II permit actions if no emissions increase is allowed.
(B) For NSR permit actions, issuance of a new Standard ACDP requires public notice in accordance with OAR 340 division 209 for Category IV permit actions.
(b) Issuance of a modified Standard ACDP requires one of the following, as applicable:
(A) Non-technical modifications and non-NSR Basic and Simple technical modifications require public notice in accordance with OAR 340 division 209 for Category I permit actions.
(B) Non-NSR/PSD Moderate and Complex technical modifications require public notice in accordance with OAR 340 division 209 for Category II permit actions if no increase in allowed emissions, or Category III permit actions if an increase in emissions is allowed.
(C) NSR/PSD modifications require public notice in accordance with OAR 340 division 209 for Category IV permit actions.
[ED. NOTE: The ~~T~~tables referenced in this rule are ~~available from the agency~~not included in the rule text. Click here for a PDF copy of the tables.]
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02

340-216-0070
Permitting Multiple Sources at a Single Adjacent or Contiguous Site
A single or contiguous site containing activities or processes that are covered by more than one General ACDP, or a source that contains processes or activities listed in more than one Part of Table 1, Part A to Part C, OAR 340-216-0020 may obtain a Standard ACDP.
[**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: The ~~T~~table~~(s)~~ referenced in this rule ~~is not printed in the OAR Compilation. Copies are available from the agency~~are not included in the rule text. Click here for a PDF copy of the tables.]
Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & 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 340-020-0003; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0160; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1730; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-216-0090
Sources Subject to ACDPs and Fees
All air contaminant discharge sources listed in Table 1 OAR 340-216-0020 must obtain a permit from the Department and are subject to fees as set forth in **Table 2** OAR 340-216-0020.
[**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: The ~~T~~tables referenced in this rule are not ~~printed in the OAR compilation. Copies are available from the agency~~included in the rule text. Click here for a PDF copy of the tables.]
Stat. Auth.: ORS 468.020 & ORS 468A.040
Stats. Implemented: ORS 468.065
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 340-020-0033.12; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 11-1983, f. & ef. 5-31-83; DEQ 6-1986, f. & ef. 3-26-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 17-1990, f. & cert. ef. 5-25-90; 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 340-020-0165; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 22-1994. f. & cert. ef. 10-14-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 18-1997, f. 8-27-97, cert. ef. 10-1-97; DEQ 7-1998, f. & cert. ef. 5-5-98; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1750; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DIVISION 216

OAR 340-216-0020

AIR CONTAMINANT DISCHARGE PERMITS

Table 1

Part A: Activities and Sources
The following commercial and industrial sources must obtain a Basic ACDP under the procedures set forth in 340-216-0056 unless the source is required to obtain a different form of ACDP by Part B or C hereof: (Production and emission parameters are based on the latest consecutive 12 month period, or future projected operation, whichever is higher. Emission cutoffs are based on actual emissions.)

1. ** Autobody Repair or Painting Shops painting more than 25 automobiles in a year.
2. Concrete Manufacturing including Redimix and CTB more than 5,000 but less than 25,000 cubic yards per year output.
3. Crematory and Pathological Waste Incinerators with less than 20 tons/yr. material input.
4. Natural gas and propane fired boilers (with or without #2 diesel oil back-up****) of 10 or more MMBTU but less than 30 MMBTU/hr heat input constructed after June 9, 1989.
5. Prepared feeds for animals and fowl and associated grain elevators more than 1,000 tons/yr. but less than 10,000 tons per year throughput.
6. Rock, Concrete or Asphalt Crushing both portable and stationary more than 5,000 tons/yr. but less than 25,000 tons/yr. crushed.
7. Surface coating operations whose actual or expected usage of coating materials is greater than 250 gallons per month, excluding sources that exclusively use non-VOC and non-HAP containing coatings (e.g. powder coating operations).

Part B Activities and Sources
The following commercial and industrial sources must obtain either:

- a General ACDP, if one is available for the source classification and the source qualifies for a General ACDP under the procedures set forth in 340-216-0060;
- a Simple ACDP under the procedures set forth in 340-216-0064; or
- a Standard ACDP under the procedures set forth in 340-216-0066 if the source fits one of the criteria of Part C hereof.

1. Aerospace or Aerospace Parts Manufacturing
2. Aluminum, Copper, and Other Nonferrous Foundries subject to an Area Source NESHAP
3. Aluminum Production - Primary
4. Ammonia Manufacturing
5. Animal Rendering and Animal Reduction Facilities
6. Asphalt Blowing Plants
7. Asphalt Felts or Coating
8. Asphaltic Concrete Paving Plants both stationary and portable
9. Bakeries, Commercial over 10 tons of VOC emissions per year
10. Battery Separator Manufacturing
11. Battery Manufacturing and Re-manufacturing
12. Beet Sugar Manufacturing

13. Boilers and other Fuel Burning Equipment over 10 MMBTU/hr. heat input, except exclusively Natural Gas and Propane fired units (with or without #2 diesel backup) under 30 MMBTU/hr. heat input
14. Building paper and Buildingboard Mills
15. Calcium Carbide Manufacturing
16. *** Can or Drum Coating
17. Cement Manufacturing
18. * Cereal Preparations and Associated Grain Elevators 10,000 or more tons/yr. throughput
19. Charcoal Manufacturing
20. Chlorine and Alkalies Manufacturing
21. Chrome Plating
22. Clay Ceramics Manufacturing subject to an Area Source NESHAP
23. Coffee Roasting (roasting 30 or more tons per year)
24. Concrete Manufacturing including Redimix and CTB 25,000 or more cubic yards per year output
25. Crematory and Pathological Waste Incinerators 20 or more tons/yr. material input
26. Degreasers (halogenated solvents subject to a NESHAP)
27. Electrical Power Generation from combustion, excluding units used exclusively as emergency generators and units less than 500 kW
28. Commercial Ethylene Oxide Sterilization, excluding facilities using less than 1 ton of ethylene oxide within all consecutive 12-month periods after December 6, 1996
29. Ferroalloy Production Facilities subject to an Area Source NESHAP
30. *** Flatwood Coating regulated by Division 232
31. *** Flexographic or Rotogravure Printing subject to RACT
32. * Flour, Blended and/or Prepared and Associated Grain Elevators 10,000 or more tons/yr. throughput
33. Galvanizing and Pipe Coating (except galvanizing operations that use less than 100 tons of zinc/yr.)
34. Gasoline Bulk Plants, Bulk Terminals, and Pipeline Facilities
35. Gasoline dispensing facilities, excluding gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline per month
36. Glass and Glass Container Manufacturing
37. * Grain Elevators used for intermediate storage 10,000 or more tons/yr. throughput
38. Grain terminal elevators
39. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr. metal charged (not elsewhere identified)
40. Gypsum Products Manufacturing
41. Hardboard Manufacturing (including fiberboard)
42. Hospital sterilization operations subject to an Area Source NESHAP.
43. Incinerators with two or more ton per day capacity
44. Lime Manufacturing
45. *** Liquid Storage Tanks subject to OAR Division 232
46. Magnetic Tape Manufacturing
47. Manufactured and Mobile Home Manufacturing
48. Marine Vessel Petroleum Loading and Unloading
49. Metal Fabrication and Finishing Operations subject to an Area Source NESHAP, excluding facilities that meet all the following:
    a. Do not perform any of the operations listed in OAR 340-216-0060(2)(b)(Y)(i) and (iii);
    b. Do not perform shielded metal arc welding (SMAW) using metal fabrication and finishing hazardous air pollutant (MFHAP) containing wire or rod; and
    c. Use less than 100 pounds of MFHAP containing welding wire and rod per year

50. Millwork (including kitchen cabinets and structural wood members) 25,000 or more bd. ft./maximum 8 hr. input
51. Molded Container
52. Motor Coach Manufacturing
53. Motor Vehicle and Mobile Equipment Surface Coating Operations subject to an Area Source NESHAP, excluding motor vehicle surface coating operations painting less than 10 vehicles per year or using less than 20 gallons of coating per year and motor vehicle surface coating operations registered pursuant to OAR 340-210-0100(2)
54. Natural Gas and Oil Production and Processing and associated fuel burning equipment
55. Nitric Acid Manufacturing
56. Non-Ferrous Metal Foundries 100 or more tons/yr. of metal charged
57. Organic or Inorganic Chemical Manufacturing and Distribution with ½ or more tons per year emissions of any one criteria pollutant (sources in this category with less than ½ ton/yr. of each criteria pollutant are not required to have an ACDP)
58. Paint and Allied Products Manufacturing subject to an Area Source NESHAP
59. Paint Stripping and Miscellaneous Surface Coating Operations subject to an Area Source NESHAP
60. *** Paper or other Substrate Coating
61. Particleboard Manufacturing (including strandboard, flakeboard, and waferboard)
62. Perchloroethylene Dry Cleaning Operations subject to an Area Source NESHAP, excluding perchloroethylene dry cleaning operations registered pursuant to OAR 340-210-0100(2)
63. Pesticide Manufacturing 5,000 or more tons/yr. annual production
64. Petroleum Refining and Re-refining of Lubricating Oils and Greases including Asphalt Production by Distillation and the reprocessing of oils and/or solvents for fuels
65. Plating and Polishing Operations subject to an Area Source NESHAP
66. Plywood Manufacturing and/or Veneer Drying
67. Prepared Feeds Manufacturing for animals and fowl and associated grain elevators 10,000 or more tons per year throughput
68. Primary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
69. Pulp, Paper and Paperboard Mills
70. Rock, Concrete or Asphalt Crushing both portable and stationary 25,000 or more tons/yr. crushed
71. Sawmills and/or Planing Mills 25,000 or more bd. ft./maximum 8 hr. finished product
72. Secondary Nonferrous Metals Processing subject to an Area Source NESHAP
73. Secondary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
74. * Seed Cleaning and Associated Grain Elevators 5,000 or more tons/yr. throughput
75. Sewage Treatment Facilities employing internal combustion for digester gasses
76. Soil Remediation Facilities stationary or portable
77. Steel Works, Rolling and Finishing Mills
78. *** Surface Coating in Manufacturing subject to RACT
79. Surface Coating Operations with actual emissions of VOCs before add on controls of 10 or more tons/yr.
80. Synthetic Resin Manufacturing
81. Tire Manufacturing
82. Wood Furniture and Fixtures 25,000 or more bd. ft./maximum 8 hr. input
83. Wood Preserving (excluding waterborne)
84. All Other Sources not listed herein that the Department determines an air quality concern exists or one which would emit significant malodorous emissions
85. All Other Sources not listed herein which would have actual emissions, if the source were to operate uncontrolled, of 5 or more tons a year of direct PM2.5 or PM10 if

located in a PM2.5 or PM10 non-attainment or maintenance area, or 10 or more tons of any single criteria pollutant in any part of the state

Part C: Activities and Sources

The following sources must obtain a Standard ACDP under the procedures set forth in 340-216-0066:

1. Incinerators for PCBs and / or other hazardous wastes
2. All Sources that the Department determines have emissions that constitute a nuisance
3. All Sources electing to maintain the source's baseline emission rate, or netting basis
4. All Sources subject to a RACT, BACT, LAER, NESHAP adopted in OAR 340-244-0220, NSPS, State MACT, or other significant Air Quality regulation(s), except:
    a. Source categories for which a General ACDP has been issued.
    b. Sources with less than 10 tons/yr. actual emissions that are subject to RACT, NSPS or a NESHAP adopted in OAR 340-244-0220 which qualify for a Simple ACDP.
    c. Sources registered pursuant to OAR 340-210-0100(2).
    d. Electrical power generation units used exclusively as emergency generators and units less than 500 kW.
    e. Gasoline dispensing facilities, provided the gasoline dispensing facility has monthly throughput of less than 10,000 gallons of gasoline per month
    f. Motor vehicle surface coating operations painting less than 10 vehicles per year or using less than 20 gallons of coating per year.
    g. Commercial ethylene oxide sterilization operations using less than 1 ton of ethylene oxide within all consecutive 12-month periods after December 6, 1996.
    h. Metal fabrication and finishing operations that meet all the following:
        A. Do not perform any of the operations listed in OAR 340-216-0060(2)(b)(Y)(i) and (iii);
        B. Do not perform shielded metal arc welding (SMAW) using metal fabrication and finishing hazardous air pollutant (MFHAP) containing wire or rod; and
        C. Use less than 100 pounds of MFHAP containing welding wire and rod per year

5. All sources having the potential to emit more than 100,000 tons CO_2e of GHG emissions in a year.

~~5~~6. All Sources having the Potential to Emit more than 100 tons of any regulated air contaminant in a year, other than GHGs and HAPs

~~6~~7. All Sources having the Potential to Emit more than 10 tons of a single hazardous air pollutant in a year

~~7~~8. All Sources having the Potential to Emit more than 25 tons of all hazardous air pollutants combined in a year

Notes:

* Applies only to Special Control Areas
** Portland AQMA only
*** Portland AQMA, Medford-Ashland AQMA or Salem SKATS only
**** "back-up" means less than 10,000 gallons of fuel per year

Table 2

Part 1. Initial Permitting Application Fees: (in addition to first annual fee)

a. Short Term Activity ACDP	$3,000.00
b. Basic ACDP	$120.00
c. Assignment to General ACDP	$1,200.00*
d. Simple ACDP	$6,000.00
e. Construction ACDP	$9,600.00
f. Standard ACDP	$12,000.00
g. Standard ACDP (PSD/NSR)	$42,000.00

*DEQ may waive the assignment fee for an existing source requesting to be assigned to a General ACDP because the source is subject to a newly adopted area source NESHAP as long as the existing source requests assignment within 90 days of notification by DEQ.

Part 2. Annual Fees: (Due date 12/1* for 1/1 to 12/31 of the following year)

a. Short Term Activity ACDP		$NA
b. Basic ACDP		$360.00
c. General ACDP	(A) Fee Class One	$720.00
	(B) Fee Class Two	$1,296.00
	(C) Fee Class Three	$1,872.00
	(D) Fee Class Four	$360.00
	(E) Fee Class Five	$120.00
	(F) Fee Class Six	$240.00
d. Simple ACDP	(A) Low Fee	$1,920.00
	(B) High Fee	$3,840.00
e. Standard ACDP		$7,680.00

*****The payment due date for dry cleaners or gasoline dispensing facilities may be extended by the Department until March 1st.

Part 3. Specific Activity Fees:

a. Non-Technical Permit Modification (1)	$360.00
b. Non-PSD/NSR Basic Technical Permit Modification (2)	$360.00
c. Non-PSD/NSR Simple Technical Permit Modification(3)	$1,200.00
d. Non-PSD/NSR Moderate Technical Permit Modification (4)	$6,000.00
e. Non-PSD/NSR Complex Technical Permit Modification (5)	$12,000.00
f. PSD/NSR Modification	$42,000.00
g. Modeling Review (outside PSD/NSR)	$6,000.00
h. Public Hearing at Source's Request	$2,400.00
i. State MACT Determination	$6,000.00
j. Compliance Order Monitoring (6)	$120.00/month
k. Greenhouse Gas Reporting, as required by OAR 340-215-	15% of the applicable annual fee in Part 2

Part 4. Late Fees:

a. 8-30 days late 5%
b. 31-60 days late 10%
c. 61 or more days late 20%

1. Non-Technical modifications include, but are not limited to name changes, change of ownership and similar administrative changes. For gasoline dispensing facilities, a portion of these fees will be used to cover the fees required for changes of ownership in OAR 340-150-0052(4).
2. Basic Technical Modifications include, but are not limited to corrections of emission factors in compliance methods, changing source test dates for extenuating circumstances, and similar changes.
3. Simple Technical Modifications include, but are not limited to, incorporating a PSEL compliance method from a review report into an ACDP, modifying a compliance method to use different emission factors or process parameter, changing source test dates for extenuating circumstances, changing reporting frequency, incorporating NSPS and NESHAP requirements that do not require judgment, and similar changes.
4. Moderate Technical Modifications include, but are not limited to incorporating a relatively simple new compliance method into a permit, adding a relatively simple compliance method or monitoring for an emission point or control device not previously addressed in a permit, revising monitoring and reporting requirements other than dates and frequency, adding a new applicable requirement into a permit due to a change in process or change in rules and that does not require judgment by the Department, incorporating NSPS and NESHAP requirements that do not require judgment, and similar changes.
5. Complex Technical Modifications include, but are not limited to incorporating a relatively complex new compliance method into a permit, adding a relatively complex compliance method or monitoring for an emission point or control devise not previously addressed in a permit, adding a relatively complex new applicable requirement into a permit due to a change in process or change in rules and that requires judgment by the Department, and similar changes.
6. This is a one time fee payable when a Compliance Order is established in a Permit or a Department Order containing a compliance schedule becomes a Final Order of the Department and is based on the number of months the Department will have to oversee the Order.

DIVISION 222

STATIONARY SOURCE PLANT SITE EMISSION LIMITS

340-222-0042
Short Term PSEL

(1) For sources located in areas with established short term SER (OAR 340-200-0020 Table 3), PSELs are required on a short term basis for those pollutants that have a short term SER. The short term averaging period is daily, unless emissions cannot be monitored on a daily basis. The averaging period for short term PSELs can never be greater than monthly.
(a) For existing sources, the initial short term PSEL will be set as:
(A) the lesser of the short term capacity or the current permit's short term PSEL, if each is greater than or equal to the short term SER; or
(B) the generic PSEL, if either the short term capacity or the current short term PSEL is less than the short term SER.
(b) For new sources, the initial short term PSEL will be zero.
(2) If an applicant wants a short term PSEL at a rate greater than the initial short term PSEL, the applicant must:
(a) Demonstrate that the requested increase over the initial short term PSEL is less than the significant emission rate (Note: In this case new sources would get a generic PSEL); or
(b) For increases equal to or greater than the SER over the initial short term PSEL:
(A) Obtain offsets and demonstrate a net air quality benefit in accordance with OAR 340-225-0090;
(B) Obtain an allocation from an available growth allowance in accordance with the applicable maintenance plan; or
(C) For carbon monoxide, demonstrate that the source or modification will not cause or contribute to an air quality impact equal to or greater than 0.5 mg/m^3 (8 hour average) and 2 mg/m^3 (1 hour average).
(D) For federal major sources, demonstrate compliance with air quality related values (AQRV) protection in accordance with OAR 340-225-0070.
(3) Once the short term PSEL is increased pursuant to section (2) of this rule, the increased level becomes the initial short term PSEL for future evaluations.
[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies 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

340-222-0045
Unassigned Emissions

(1) Purpose. The purpose of unassigned emissions is to track and manage the difference in the quantity of emissions between the netting basis and what the source could emit based on the facility's current physical and operational design.
(2) Establishing unassigned emissions.
(a) Unassigned emissions equal the netting basis minus the source's current PTE, minus any banked emission reduction credits. Unassigned emissions are zero if this result is negative.

(b) Unused capacity created after the effective date of this rule due to reduced potential to emit that is not banked or expired emission reduction credits (OAR 340-268-0030), increase unassigned emissions on a ton for ton basis.
(3) Maximum unassigned emissions.
(a) Except as provided in paragraph (c) of this section, unassigned emissions will be reduced to not more than the SER (OAR 340-200-0020 Table 2) on July 1, 2007 and at each permit renewal following this date.
(b) The netting basis is reduced by the amount that unassigned emissions are reduced.
(c) In an AQMA where the EPA requires an attainment demonstration based on dispersion modeling, unassigned emissions are not subject to reduction under this rule.
(4) Using unassigned emissions.
(a) Unassigned emissions may be used for internal netting to allow an emission increase at the existing source in accordance with the permit.
(b) Unassigned emissions may not be banked or transferred to another source.
(c) Emissions that are removed from the netting basis are unavailable for netting in any future permit actions.
(5) Upon renewal, modification or other reopening of a permit after July 1, 2002 the unassigned emissions will be established with an expiration date of July 1, 2007 for all unassigned emissions in excess of the SER. Each time the permit is renewed after July 1, 2007 the unassigned emissions will be established again and reduced upon the following permit renewal to no more than the SER for each pollutant in OAR 340-200-0020 Table 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.]
[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]
Stat. Auth.: ORS 468.020 & ORS 468A.310
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DIVISION 224

MAJOR NEW SOURCE REVIEW

340-224-0010
Applicability and General Prohibitions

(1) Within designated ~~N~~nonattainment and ~~M~~maintenance areas, this division applies to owners and operators of proposed major sources and major modifications for the regulated pollutant(s) for which the area is designated nonattainment or maintenance~~of air contaminant sources~~.

(2) Within attainment and unclassifiable areas, this division applies to owners and operators of proposed ~~F~~federal ~~M~~major sources and major modifications at ~~F~~federal ~~M~~major sources for the regulated pollutant(s) for which the area is designated attainment or unclassified.

(3) Owners and operators of sources that do not meet the applicability criteria of sections (1) or (2) of this rule ~~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~~4) No owner or operator of a source that meets the applicability criteria of sections (1) or (2) of this rule 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.

(5) Beginning May 1, 2011, the pollutant GHGs is subject to regulation if:

(a) The source is a new federal major source for a regulated pollutant that is not GHGs, and also emits, will emit or will have the potential to emit 75,000 tons per year CO2e or more; or

(b) The source is or becomes a federal major source subject to OAR 340-224-0070 as a result of a major modification for a regulated pollutant that is not GHGs, and will have an emissions increase of 75,000 tons per year CO2e or more over the netting basis.

(6) Beginning July 1, 2011, in addition to the provisions in section (5) of this rule, the pollutant GHGs shall also be subject to regulation at:

(a) A new federal major source; or

(b) A source that is or becomes a federal major source when such source undertakes a major modification.

(7) Subject to the requirements in this division, the Lane Regional Air Protection Agency is designated by the Commission as the permitting agency to implement the Oregon Major New Source Review program within its area of jurisdiction. The Regional Agency's program is subject to Department oversight. The requirements and procedures contained in this division pertaining to the Major New Source Review program shall be used by the Regional Agency to implement its permitting program until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.

[**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

Within a designated nonattainment area, ~~P~~proposed major sources and major modifications ~~that would emit~~ of a nonattainment pollutant, ~~within a designated nonattainment area,~~ including VOC or NOx in a designated ~~O~~ozone ~~N~~nonattainment ~~A~~area or 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 apply~~demonstrate that the source or modification will comply with the~~ LAER for each nonattainment pollutant or precursor(s) emitted at or above the significant emission rate (SER). LAER applies separately to the nonattainment pollutant or precursor(s) if emitted at or above a SER over the netting basis.

(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.~~ the following:

(A) Each emissions unit that emits the nonattainment pollutant or precursor(s) and is not included in the most recent netting basis established for that pollutant; and

(B) Each emissions unit that emits the nonattainment pollutant or precursor (s) and is included in the most recent netting basis but has been modified and the modification resulted in an increase in actual emissions above the portion of the most recent netting basis attributable to the emissions unit or the nonattainment pollutant or precursor(s).

(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 m~~Modifications to individual emissions units that increase the ~~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) ~~t~~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 or more of any regulated ~~NSR~~ pollutant subject to this division 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 or more of any regulated ~~NSR~~ pollutant subject to this division 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

340-224-0060
Requirements for Sources in Maintenance Areas
Within a designated maintenance area, ~~P~~proposed major sources and major modifications ~~that would emit~~of a maintenance pollutant~~, within a designated maintenance area,~~ including VOC or NOx in a designated ozone maintenance area or SO2 or NOx in a designated PM2.5 maintenance area, must meet the requirements listed below:
(1) Best Available Control Technology (BACT). Except as provided in section (5) and (6) of this rule, the owner or operator must apply BACT for each maintenance pollutant or precursor(s) emitted at or above a significant emission rate (SER). BACT applies separately to the maintenance pollutant or precursor(s) if emitted at or above a SER over the netting basis.
(a) For a major modification, the requirement for BACT applies ~~only~~ to the following:
(A) Each ~~new~~ emissions unit that emits the maintenance pollutant or precursor(s) ~~in question and was installed since the baseline period or the~~ and is not included in the most recent ~~New Source Review construction approval for that pollutant~~netting basis established for that pollutant; and
(B) Each ~~modified~~ emissions unit that emits the maintenance pollutant or precursor (s) and is included in the most recent netting basis but has been modified and the modification resulted in an increase in actual emissions above the portion of the most recent netting basis attributable to the emissions unit or the maintenance pollutant or precursor(s). ~~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, the technical and economic feasibility of retrofitting required controls may be considered, provided:

(A) The change was made in compliance with NSR requirements in effect when the change was made; and
(B) No limit is being relaxed that was previously relied on to avoid NSR.
(d) ~~Individual m~~Modifications to individual emissions units that increase the ~~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 Protection:
(a) Offsets and Net Air Quality Benefit. Except as provided in subsections (b), (c), (d) and (e) of this section, the owner or operator must obtain offsets and demonstrate that a net air quality benefit will be achieved in the area as specified in OAR 340-225-0090.
(b) Growth Allowance. The requirements of this section may be met in whole or in part in an ozone or carbon monoxide maintenance area with an allocation by the Department from a growth allowance, if available, in accordance with the applicable maintenance plan in the SIP adopted by the Commission and approved by EPA. An allocation from a growth allowance used to meet the requirements of this section is not subject to OAR 340-225-0090. Procedures for allocating the growth allowances for the Oregon portion of the Portland-Vancouver Interstate Maintenance Area for Ozone and the Portland Maintenance Area for Carbon Monoxide are contained in 340-242-0430 and 340-242-0440.
(c) In a carbon monoxide maintenance area, a proposed carbon monoxide major source or major modification is exempt from subsections (a) and (b) of this section if the owner or operator can demonstrate that the source or modification will not cause or contribute to an air quality impact equal to or greater than 0.5 mg/m3 (8 hour average) and 2 mg/m3 (1-hour average). The demonstration must comply with the requirements of OAR 340-225-0045.
(d) In a PM10 maintenance area, a proposed PM10 major source or major modification is exempt from subsection (a) of this section if the owner or operator can demonstrate, pursuant to the requirements of OAR 340-225-0045, that the source or modification will not cause or contribute to an air quality impact in excess of:
(A) 120 ug/m3 (24-hour average) or 40 ug/m3 (annual average) in the Grants Pass PM10 maintenance area;
(B) 140 ug/m3 (24-hour average) or 47 ug/m3 (annual average) in the Klamath Falls PM10 maintenance area; or
(C) 140 ug/m3 (24-hour average) or 45 ug/m3 (annual average) in the Lakeview PM10 maintenance area. In addition, a single source impact is limited to an increase of 5 ug/m3 (24-hour average) in the Lakeview PM10 maintenance area.
(e) Proposed major sources and major modifications located in or that impact the Salem Ozone Maintenance Area are exempt from OAR 340-225-0090 and section (2)(a) of this rule for VOC and NOx emissions with respect to ozone formation in the Salem Ozone Maintenance Area.
(3) The owner or operator of a source subject to this rule must provide an air quality analysis in accordance with OAR 340-225-0050(1) and (2), and 340-225-0060.
(4) Additional Requirements for Federal Major Sources: The owner or operator of a federal major 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(3) and 340-225-0070.

In addition to the provisions of this section, provisions of section 340-224-0070 also apply to federal major sources.
(5) Contingency Plan Requirements. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, this section applies in addition to other requirements of this rule until the Commission adopts a revised maintenance plan and EPA approves it as a SIP revision.
(a) The requirement for BACT in section (1) of this rule is replaced by the requirement for LAER contained in OAR 340-224-0050(1).
(b) An allocation from a growth allowance may not be used to meet the requirement for offsets in section (2) of this rule.
(c) The exemption provided in subsection (2)(c) and (2)(d) of this rule for major sources or major modifications within a carbon monoxide or PM10 maintenance area no longer applies.
(6) Medford-Ashland AQMA: Proposed major sources and major modifications that would emit PM10 within the Medford-Ashland AQMA must meet the LAER emission control technology requirements in OAR 340-224-0050.
(7) Pending Redesignation Requests. This rule does not apply to a proposed major source or major modification for which a complete application to construct was submitted to the Department before the maintenance area was redesignated from nonattainment to attainment by EPA. Such a source is subject to OAR 340-224-0050.
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 26-1996, f. & cert. ef. 11-26-96; DEQ 15-1998, 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 340-028-1935; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 3-2007, f. & cert. ef. 4-12-07

340-224-0070
Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas
Within a designated attainment or unclassified area, ~~P~~proposed ~~new~~ federal major sources ~~or~~and major modifications at federal major sources for the pollutant(s) for which the area is designated attainment or unclassified, ~~locating in areas designated attainment or unclassifiable~~ must meet the ~~following~~ requirements listed below:
(1) Best Available Control Technology (BACT). The owner or operator ~~of the proposed major source or major modification~~ must apply BACT for each pollutant or precursor(s) emitted at or above a significant emission rate (SER) ~~over the netting basis~~. BACT applies separately to the pollutant or precursor(s) if emitted at or above a SER over the netting basis. In the Medford-Ashland AQMA, the owner or operator of any proposed new ~~F~~federal ~~M~~major PM10 source, or proposed major modification of a ~~F~~federal ~~M~~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 the following:

(A) Each ~~new~~ emissions unit that emits the pollutant or precursor(s) ~~in question and was installed since the baseline period or~~ and is not included in the most recent ~~New Source Review construction approval for that pollutant~~netting basis established for that pollutant; and
(B) Each ~~modified~~ emissions unit that emits the pollutant or precursor (s) and is included in the most recent netting basis but has been modified and the modification resulted in an increase in actual emissions above the portion of the most recent netting basis attributable to the emissions unit or the nonattainment pollutant or precursor(s).~~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 m~~Modifications to individual emissions units that increase the ~~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 o~~f~~r operator of a source subject to this rule must provide an analysis of the air quality impacts of each pollutant for which emissions will exceed the netting basis by the SER or more due to ~~for~~ the proposed source or modification in accordance with OAR 340-225-0050 through 340-225-0070.
(a) For increases of direct PM2.5 or PM2.5 precursors equal to or greater than the significant emission rate, the owner or operator must provide an analysis of PM2.5 air quality impacts based on all increases of direct PM2.5 and PM2.5 precursors.
(b)The owner or operator of any source subject to this rule that significantly ~~affects~~ impacts air quality in a designated nonattainment or maintenance area must meet the requirements of net air quality benefit in 340-225-0090.
(3) Air Quality Monitoring: The owner or operator of a source subject to this rule must conduct ambient air quality monitoring in accordance with the requirements in OAR 340-225-0050.
(4) The owner or operator of a source subject to this rule and significantly impacting a PM10 maintenance area (significant air quality impact is defined in OAR 340-200-0020), must comply with the requirements of 340-224-0060(2).
[**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

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 ~~p~~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 source or modification on which construction commenced after January 6, 1975 must not be included in the baseline calculation;
(b) The ambient concentration level for nitrogen oxides that existed in an area during the calendar year 1988.
(c) For the area of northeastern Oregon within the boundaries of the Umatilla, Wallowa-Whitman, Ochoco, and Malheur National Forests, the ambient concentration level for PM10 that existed during the calendar year 1993. The Department may allow the source to use an earlier time period if the Department determines that it is more representative of normal emissions.
(d) For PM10 in the Medford-Ashland AQMA: the ambient PM10 concentration levels that existed during the year that EPA redesignates the AQMA to attainment for PM10.
(e) The ambient concentration level for PM2.5 that existed in an area during the calendar year 2007.
(f) If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for the years specified in subsections (a) through (e) of this section.
(4) "Competing PSD Increment Consuming Source Impacts" means the total modeled concentration above the modeled Baseline Concentration resulting from increased emissions of all other sources since the baseline concentration year that are within the Range of Influence of the source in question. Allowable Emissions may be used as a conservative estimate, in lieu of Actual Emissions, in this analysis.

(5) "Competing NAAQS Source Impacts" means total modeled concentration resulting from allowable emissions of all other sources that are within the Range of Influence of the source in question.
(6) "FLAG-" refers to the Federal Land Managers' Air Quality Related Values Work Group Phase I Report - REVISED. See 6675 Federal Register 266125, January 3October 27, 20010 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.]~~

Constant K for Range of Influence Calculation					
Pollutant	PM2.5/PM10	SOx	NOx	CO	Lead
K	5	5	5	40	0.15

(b) For PSD Class I areas, the Range of Influence of a competing source includes emissions from all sources that occur within the modeling domain of the source being evaluated. The Department determines the modeling domain on a case-by-case basis.
(13) "Source Impact Area" means a circular area with a radius extending from the source to the largest distance to where predicted impacts from the source or modification equal or exceed the 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: The ~~T~~tables referenced in this rule are ~~available from the agency~~not included in the rule text. Click here for a PDF copy of the tables.]
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

340-225-0030
Procedural Requirements
Information Required. In addition to the requirements defined in OAR 340-216-0040, the owner or operator of a source (where required by divisions 222 or 224) must submit all information necessary to perform any analysis or make any determination required under these rules. Such information must include, but is not limited to:
(1) Emissions data for all existing and proposed emission points from the source or modification. This data must represent maximum emissions for the ~~following~~ averaging times by pollutant consistent with the ambient air quality standards in division 202.~~: [Table not included. See ED. NOTE.]~~
(2) Stack parameter data (height above ground, exit diameter, exit velocity, and exit temperature data for all existing and proposed emission points from the source or modification;
(3) An analysis of the air quality and visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and
(4) An analysis of the air quality and visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, that has occurred since January 1, 1978, in the area the source or modification would significantly affect.
~~[ED. NOTE: The Table referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]~~
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-225-0045
Requirements for Analysis in Maintenance Areas
Modeling: For determining compliance with the limits established in OAR 340-224-0060(2)(c) and (2)(d), NAAQS, and PSD Increments, the following methods must be used:
(1) For each maintenance pollutant and its precursors, ~~A~~a single source impact analysis is sufficient to show compliance with standards, PSD increments, and limits if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification being evaluated are less than the Class II Significant Air Quality Impact ~~l~~Levels specified in OAR 340-200-0020, Table 1 ~~for all maintenance pollutants~~.
(2) If the ~~above~~ requirement in section (1) of this rule is not satisfied, the owner or operator of a proposed source or modification being evaluated must perform competing source modeling as follows:
(a) For demonstrating compliance with the maintenance area limits established in OAR 340-224-0060(2)(c) and (2)(d), the owner or operator of a proposed source or modification must show that modeled impacts from the proposed increased emissions plus Competing Source Impacts, plus predicted maintenance area concentration are less than the limits for all averaging times.
(b) For demonstrating compliance with the NAAQS, the owner or operator of a proposed source or modification must show that the total modeled impacts plus total Competing NAAQS Source Impacts plus General Background Concentrations are less than the NAAQS for all averaging
(c) For demonstrating compliance with the PSD Increments (as defined in OAR 340-202-0210, Table 1), the owner or operator of a proposed source or modification must show that modeled impacts from the proposed increased emissions (above the baseline concentration) plus competing PSD Increment Consuming Source Impacts (above the baseline concentration) are less than the PSD increments for all averaging times.
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) For each pollutant and its precursors, ~~A~~a single source impact analysis is sufficient to show compliance with standards and PSD increments if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification being evaluated are less than the Class II Significant Air Quality Impact ~~l~~Levels specified in OAR 340-200-0020, Table 1 ~~for all pollutants~~.
(2) If the ~~above~~ requirement in section (1) of this rule is not satisfied, the owner or operator of a proposed source or modification being evaluated must perform competing source modeling as follows:
(a) For demonstrating compliance with the PSD Increments (as defined in OAR 340-202-0210, Table 1), the owner or operator of a proposed source or modification must show that modeled impacts from the proposed increased emissions (above the modeled Baseline Concentration) plus

Competing PSD Increment Consuming Source Impacts (above the modeled Baseline Concentration) are less than the PSD increments for all averaging times.
(b) For demonstrating compliance with the NAAQS, the owner or operator of a proposed source must show that the total modeled impacts plus total Competing NAAQS Source Impacts plus General Background Concentrations are less than the NAAQS for all averaging times.
(3) Additional Impact Modeling:
(a) When referred to this rule by divisions 222 or 224, the owner or operator of a source must provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification, and general commercial, residential, industrial and other growth associated with the source or modification. As a part of this analysis, deposition modeling analysis is required for sources emitting heavy metals above the significant emission rates as defined in OAR 340-200-0020, Table 2. Concentration and deposition modeling may also be required for sources emitting other compounds on a case-by-case basis;
(b) The owner or operator must provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.
(4) Air Quality Monitoring:
(a)(A) When referred to this rule by division 224, the owner or operator of a source must submit with the application an analysis of ambient air quality in the area impacted by the proposed project. This analysis, which is subject to the Department's approval, must be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. The analysis must include continuous air quality monitoring data for any pollutant that may be emitted by the source or modification, except for volatile organic compounds. The data must relate to the year preceding receipt of the complete application and must have been gathered over the same time period. The Department may allow the owner or operator to demonstrate that data gathered over some other time period would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment. Pursuant to the requirements of these rules, the owner or operator must submit for the Department's approval, a preconstruction air quality monitoring plan. This plan must be submitted in writing at least 60 days prior to the planned beginning of monitoring and approved in writing by the Department before monitoring begins.
(B) Required air quality monitoring must be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" (July 1, 2000) and with other methods on file with the Department.
(C) The Department may exempt the owner or operator of a proposed source or modification from preconstruction monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that modeled competing source concentration (plus General Background Concentration) of the pollutant within the Source Impact Area are less than the following significant monitoring concentrations:
(i) Carbon monoxide; 575 ug/m3, 8 hour average;
(ii) Nitrogen dioxide; 14 ug/m3, annual average;
(iii) PM10; 10 ug/m3, 24 hour average~~.~~:
(iv) PM2.5; 4 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;
(~~viii~~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: The ~~T~~tables referenced in this rule are ~~available from the agency~~not included in the rule text. Click here for a PDF copy of the tables.]
[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) For each pollutant and its precursors, ~~A~~a single source impact analysis will be sufficient to show compliance with increments if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification ~~the source~~ being evaluated are demonstrated to be less than the Class I impact levels specified in OAR 340-200-0020, Table ~~I~~1 ~~below~~.

(b) If the ~~above~~ requirement in subsection (a) of this section is not satisfied, the owner or operator must also show that the increased source impacts (above Baseline Concentration) plus Competing PSD Increment Consuming Source Impacts are less than the PSD increments for all averaging times.
(c) For each pollutant and its precursors, ~~A~~a single source impact analysis will be sufficient to show compliance with standards if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification ~~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 subsection (2)(a) of this section is not satisfied, and background monitoring data for each PSD Class I area shows that the NAAQS is more controlling than the PSD increment then the source must also demonstrate compliance with the NAAQS by showing that their total modeled impacts plus total modeled Competing NAAQS Source Impacts plus General Background Concentrations are less than the NAAQS for all averaging times.
[ED. NOTE: The ~~T~~tables referenced in this rule are ~~available from the agency~~not included in the rule text. Click here for a PDF copy of the tables.]
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 comply with paragraphs (A) through (E) of this subsection:
(A) Obtain offsets from within the same designated nonattainment area for the nonattainment pollutant(s);
(B) Except as provided in paragraph (C) of this subsection, Pprovide a minimum of 1:1 offsets for each nonattainment pollutant and precursor with emission increases over the Netting Basis;
(C) For PM2.5; inter-pollutant offsets are allowed as follows:
(i) 1 ton of direct PM2.5 may be used to offset 40 tons of SO2;
(ii) 1 ton of direct PM2.5 may be used to offset 100 tons of NOx;
(iii) 40 tons of SO2 may be used to offset 1 ton of direct PM2.5;
(iv) 100 tons of NOx may be used to offset 1 ton of direct PM2.5.
(CD) Provide a net air quality benefit within the designated nonattainment area. "Net Air Quality Benefit" means:
(i) Offsets obtained result in a reduction in concentration at a majority of the modeled receptors and the emission increases from the proposed source or modification will result in less than a significant impact level increase at all modeled receptors; or
(ii) For a small scale local energy project and any infrastructure related to that project located in the same area, a reduction of the nonattainment pollutant emissions equal to the ratio specified in this subsection, provided that the proposed major source or major modification would not cause or contribute to a violation of the national ambient air quality standard or otherwise pose a material threat to compliance with air quality standards in the nonattainment area.
(DE) 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 2340-200-0020) 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:
(i) Aa reduction in concentration at a majority of the modeled receptors and less than a significant impact level increase at all modeled receptors.; or

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

(B) Medford-Ashland AQMA: Proposed new major PM10 sources or major PM10 modifications located outside the Medford-Ashland AQMA that cause a significant air quality impact on the AQMA must provide reductions in PM10 emissions sufficient to reduce modeled impacts below the significant air quality impact level (OAR ~~2~~340-200-0020) at all receptors within the AQMA.

(3) Except as provided in paragraph (2)(a)(C) of this rule, ~~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.

(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

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

Table **OAR 340-225-0020**					
K is a constant defined by pollutant					
Pollutant	PM10	SOx	NOx	CO	Lead
K	5	5	10	40	0.15

Table (340-225-0030)	
Averaging times by pollutant	
PM10	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
PM10	24 hour	0.30 µg/m3
PM10	Annual	0.20 µg/m3
SO2	3 hour	1.0 µg/m3
SO2	24 hour	0.20 µg/m3
SO2	Annual	0.10 µg/m3
NO2	Annual	0.10 µg/m3

DIVISION 228

REQUIREMENTS FOR FUEL BURNING EQUIPMENT AND FUEL SULFUR CONTENT

Federal Acid Rain Program

340-228-0300
Federal Regulations Adopted by Reference

(1) **40 CFR Parts 72**, **75**, **and 76** (July ~~1~~2, 201~~06~~) are by this reference adopted and incorporated herein, for purposes of implementing an acid rain program that meets the requirements of title IV of the Clean Air Act. The term "permitting authority" means the Oregon Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency.

(2) If the provisions or requirements of **40 CFR Part 72** conflict with or are not included in OAR 340 ~~D~~divisions 218 or 220, the Part 72 provisions and requirements shall apply and take precedence.

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

Stat. Auth.: ORS 468.020 & 468.310(2)

Stats. Implemented: ORS 468A.025

Hist.: DEQ 32-1994, f. & cert. ef. 12-22-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0075; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 13-2006, f. & cert. ef. 12-22-06

DIVISION 246

OREGON STATE AIR TOXICS PROGRAM

340-246-0230
Safety Net Source Air Toxics Emissions Reduction Measures in Permit
(1) Public Participation. The Department will hold public informational meetings to discuss proposed air toxics emissions reduction measures. After the informational meetings, the Department will provide at least 40-days notice before holding a public hearing to collect official comments on the proposed air toxics emissions reduction measures.
(2) Permit or Permit Modification After considering public comments, the Department will propose air toxics emissions reduction measures to be placed in the source's permit, according to the reopening process for Oregon Title V permits in OAR 340-218-0200 or Oregon Title V Permit issuance in 340-218-0120 or Department Initiated Permit Modifications in 340-216-0084 or Air Contaminant Discharge Permit issuance in 340-216-0020, Table I, Part B, line 74.
Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015
Stats. Implemented:
Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

Summary of proposed rule changes

Acronyms used in this document	ACDP = Air Contaminant Discharge Permit AQMA = air quality management area BACT = Best Available Control Technology CFR = Code of Federal Regulations CO_2e = carbon dioxide equivalent DC = District of Columbia DEQ = Oregon Department of Environmental Quality EPA = United States Environmental Protection Agency EQC = Oregon Environmental Quality Commission GHG = greenhouse gases HAPs = hazardous air pollutants LAER = lowest achievable emission rate NA = not applicable NAA = nonattainment area NAAQS = National Ambient Air Quality Standards NO_x = nitrogen oxides	NSR = New Source Review OAR = Oregon Administrative Rule PAL = Plantwide Applicability Limit PDF = portable document format PM_{10} = particulate matter less than 10 microns in diameter $PM_{2.5}$ = particulate matter less than 2.5 microns in diameter PSD = Prevention of Significant Deterioration PSEL = Plant Site Emission Limit PTE = potential to emit SER = significant emission rate SILs = significant impact levels SMC = significant monitoring concentration SO_2 = sulfur dioxide tpy = tons per year VOC = volatile organic compounds

Division	Rule		Suggested change	Reason/Issues
	Old#	New#		
200-0020	(3)(a)(A)	NA	Add exception for (B) , (C) and (b) in definition of actual emissions for sources that had not begun normal operation during the baseline period but were approved or permitted to construct and operate	This was omitted in the past and needs correction.
200-0020	NA	(3)(a)(C)	Add a provision in (C) in definition of actual emissions for sources that have received approval to construct and operate under the Notice of Construction rules in division 210.	Some modifications approved under the Notice of Construction rules do not require permit modification. DEQ is tightening its program by reducing the netting basis from PTE down to the highest actual emissions at the end of the baseline period for source s approved under division 210. This will be required before any future netting can take place and will prevent sources from netting out of NSR/PSD. Sources that reduce actual emissions because of voluntary controls will not lose that portion of the netting basis. This reduction will not affect the PSEL so sources will be able to increase up to PTE without going through NSR/PSD again.
200-0020	(3)(a)(C)	(3)(b)	Add a provision for sources that had not begun normal operation but were permitted under division 224 NSR/PSD with provision to reset actual emissions	The rules don't address sources that had not begun normal operations but were permitted to construct and operate under division 224. DEQ is also adding a provision to reduce PTE for these sources to actual emissions.
200-0020	NA	(3)(c)	Add a provision to reduce PTE to actual for sources permitted under division 224 or approved under division	DEQ is tightening its program by reducing the netting basis from PTE down to the highest actual emissions in the last 10 years since the date of permit

Division	Rule Old#	Rule New#	Suggested change	Reason/Issues
			210 after the baseline period	issuance for sources permitted under division 224. See explanation in (3)(a)(C) above.
200-0020	(3)(c)	(3)(d)	Add reference to Division 220	This addition ensures that the procedures for establishing verified emissions factors are followed.
200-0020	NA	(7)(e)	Add aggregate insignificant emissions threshold for PM2.5 in PM2.5 nonattainment areas	This makes PM2.5 consistent with the PM10 threshold, which is 5% of the SER (5 tons) in Medford and other nonattainment areas in older rules. 5% of 10 tons equals 0.5 tons.
200-0020	NA	(7)(h)	Add aggregate insignificant emissions threshold for GHG	The de minimis level for GHG is set at the GHG reporting threshold. DEQ will evaluate this level upon implementation and make adjustments if necessary.
200-0020	NA	(13)(a)	Add subsection for regulated pollutants only	Provided clarification that the baseline emission rate only applies to pollutants subject to the New Source Review program. Specifically, HAPs are not subject to NSR, but other there may be other pollutants also not subject to NSR. No baseline emission rate will be necessary for PM2.5 because PM2.5 will be ratioed to PM10 for both netting basis and PSEL.
200-0020	NA	(13)(b)	Add subsection for GHG	The baseline emission rate for GHG will be established with the first permit action after July 1, 2011 since that is when GHG sources are required to get permits for GHGs alone. This will give DEQ time to train permit writers and update general permits and guidance.
200-0020	NA	(13)(c)	Add subsection for newly regulated pollutants	The baseline emission rate for newly regulated pollutants will be established as the actual emissions during any consecutive 12 month period within the 24 months immediately preceding its designation as a regulated pollutant with the first permit action after the rules are adopted (May 1, 2011). This is a requirement of EPA.
200-0020	NA	(13)(d)	Add a provision for recalculating the baseline emission rate if actual emissions are reset in accordance with the definition of actual emissions.	See the discussion above in (3)(a)(C).
200-0020	NA	(13)(e)	Add a provision for freezing the production basis used to establish the baseline emission rate.	DEQ previously "froze" the baseline emission rate. After further discussion, it was determined that only the production rate that establishes the baseline emission rate needs to be frozen. Emission factors can and should be changed upon obtaining better information. Finding "new" production data is not likely, considering most baseline emission rates are set in 1977/78.

Division	Rule		Suggested change	Reason/Issues
	Old#	New#		
200-0020	(14)(a)	(14)(a)	Add exemption for GHG from 77/78 baseline	GHG baseline is set in 14(b)
200-0020	(14)	(14)(b)	Add baseline period for GHG	Add provision for newly regulated pollutant, GHG, as the highest 12-month consecutive period between 2000 and 2010.
200-0020	NA	(16)	Add a definition of biomass	EPA plans to defer carbon dioxide emissions from biomass, which DEQ will also defer.
200-0020	NA	(19)	Add definition of carbon dioxide equivalent	This definition is consistent with EPA's Tailoring Rules for purposes of Title V and PSD.
200-0020	(31)	(33)	Delete the editorial note about the table not being included with the rules for de minimis emission levels	The Secretary of State will now include links to tables in PDF files
200-0020	NA	(36)	Add definition of direct PM2.5	This definition is needed because is it used in the definition of PM2.5.
200-0020	(40)	(43)	Delete approval of emission factor by EPA or the Department	Discretionary approval should not be allowed. It should be clear what emission factors are being used to calculate emissions. They will be included in the plant site emissions detail sheets
200-0020	(52)	(55)	Add GHG threshold of 100,000 tons CO2e per year to definition of Federal Major Source	The GHG threshold is based on EPA's rule.
200-0020	(52)	(55)	Include fugitive emissions in the definition of major modification	Clarify that fugitive emissions should be included in the major new source review applicability as required by 340-224-0100.
200-0020	(52)	(55)	Include emission decreases in PTE calculations	Clarify that emission decreases may also be included in the major new source review applicability as required by 340-224-0100.
200-0020	(56)	(59)	Delete the editorial note about the table not being included with the rules for generic PSELs	The Secretary of State will now include links to tables in PDF files
200-0020	NA	(60)(a)	Add definition greenhouse gases (GHGs)	This definition is consistent with EPA's Tailoring Rules for purposes of Title V and PSD.
200-0020	NA	(60)(b)	Add deferral of carbon dioxide emissions from the combustion or decomposition of biomass.	EPA has proposed to defer carbon dioxide emissions from the combustion or decomposition of biomass. This deferral will be limited to divisions 216 (ACDP), 218 (Title V) and 224 (Major New Source Review) except to the extent required by federal law. .

Division	Rule Old#	Rule New#	Suggested change	Reason/Issues
200-0020	(66)	(70)	Reword definition of major modification to include changes "in the method" of operation and add provisions as described below	This clarifies the definition and is consistent with EPA rules.
200-0020	(66)	(70)	Add a provision stating that major modifications for precursors are also major modifications for ozone and PM2.5.	This clarifies the definition and is consistent with EPA rules.
200-0020	(67)(a)	(70)(a)	Clarify that major modification is triggered if the PSEL exceeds the netting basis	This clarifies the definition and is consistent with past implementation of the rules.
200-0020	(66)(b)	(70)(b)	Clarify the accumulation of physical changes and changes in operation that trigger a major modification	This clarifies the definition and is consistent with past implementation of the rules.
200-0020	(66)(b)(A)	(70)(b)(A)	Include fugitive emissions in the definition of major modification	Clarify that fugitive emissions should be included in the major new source review applicability as required by 340-224-0100.
200-0020	(66)(b)(B)	(70)(b)(B)	Clarify that emissions increases from the increased use of equipment permitted or approved to construct in accordance with division 210 are not included in major modification applicability.	This clarifies the definition and is consistent with past implementation of the rules.
200-0020	(66)(c)	(70)(c)	Delete subsection (c) and replace with (c)(A)	Subsection (c) was not clear about when sources would trigger NSR with only a 1 ton/year increase. The new subsection (c) specifies the triggers and matches the intent and past interpretation of the rule.
200-0020	NA	(70)(c)(A)	Add provision that this section does not apply to PM2.5 or greenhouse gases	Since DEQ is just beginning to regulate $PM_{2.5}$, sources that made changes that increased PM_{10} should not be penalized since $PM_{2.5}$ was not regulated at that time. Therefore, the changes that were approved increasing PM_{10} will be grandfathered into the permits. The 5 tpy true-up should fix this problem. In the future, this would not apply to any source since they would trigger NSR/PSD. The same reasoning applies to GHG.
200-0020	NA	(70)(d)	Add provision that the portion of the netting basis and PSEL that was based on PTE because the source had not begun normal operations must be excluded from major modification applicability until it is reset.	See the discussion above in (3)(a)(C).
200-0020	(66)(d)(B)	NA	Delete the exception for pollution control projects	The DC Circuit invalidated the federal exemption from NSR upon which this paragraph is based. It is more lenient than federal requirements.
200-	(67)(a)	(71)(a)	Add fugitive emissions to the definition of major source	Fugitive emissions should be included to determine whether a source is

Division	Rule Old#	Rule New#	Suggested change	Reason/Issues
0020				major or not as required by 340-224-0100.
200-0020	(67)(a)	(71)(a)	Add that potential to emit calculations must include emissions increases due to the new or modified source	Potential to emit calculations of the new or modified source should be included to determine whether a source is major or not. This clarifies the definition and is consistent with past implementation of the rules.
200-0020	(67)(b)(B)	(71)(b)(B)	Add an exemption for GHG	GHGs are addressed in (C)
200-0020	(67)(b)(C)	(71)(b)(C)	Add definition of major stationary source for GHG	This clarifies the definition and is consistent with EPA rules.
200-0020	71	(75)	Add New Source Review division citation and add provision for emission reductions required when PTE is reduced to actual emissions.	See the discussion above in (3)(a)(C).
200-0020	71	(75)(a)	Add subsection for only regulated pollutants to the definition of netting basis	Provided clarification that the netting basis only applies to pollutants subject to the New Source Review program. Specifically, HAPs are not subject to NSR, but other there may be other pollutants also not subject to NSR.
200-0020	(71)(a)	NA	Delete the rules in netting basis that apply to the baseline emission rate since baseline emission rate will no longer be frozen.	See the discussion above in (13)(e).
200-0020	(71)	(75)(b)	Add provision for when the initial netting basis and PSEL for PM2.5 will be established.	The initial PM2.5 netting basis and PSEL will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011. DEQ is waiting until July 1, 2011 because that is when major greenhouse gas sources will be required to obtain permits. DEQ will add PM2.5 and GHGs to permits at the same time.
200-0020	(71)	(75)(b)(A)	Add provision that the initial netting basis and PSEL for PM2.5 will be the PM2.5 fraction of the PM10 netting basis and PSEL.	Since PM2.5 is a subset of PM10 emissions, DEQ will set the PM2.5 netting basis and PSEL as a fraction of the existing PM10 netting basis and PSEL. Because the PM10 significant emission rate is 15 tons/year and the PM2.5 significant emission rate is 10 tons/year, sources could retroactively trigger the PM2.5 SER because of past approved increases in PM10. In order to eliminate this possibility, a one time 5 ton true up may be necessary.
200-0020	(71)	(75)(b)(B)	Add provision for setting the initial source specific PSEL for a source with PTE greater than or equal to the SER equal to the PM2.5 fraction of the PM10 PSEL.	OAR 340-222-0041(2) requires for sources with PTE greater than or equal to the SER, an initial source specific PSEL will be set equal to the source's PTE or netting basis, whichever is less. Since the PM2.5 PSEL will be set based on the fraction of the PM10 PSEL, there may be a conflict with OAR

Division	Rule Old#	Rule New#	Suggested change	Reason/Issues
				340-222-041(2).
200-0020	(71)	(75)(c)	Add provision for when the initial netting basis and PSEL for GHG will be established.	The initial GHG netting basis and PSEL will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011. DEQ is waiting until July 1, 2011 because that is when major greenhouse gas sources will be required to obtain permits. DEQ will add PM2.5 and GHGs to permits at the same time.
200-0020	(71)(c)	(75)(d)	Clarify when the netting basis is zero	The changes clarify the instances when the netting basis is zero and matches the intent and past interpretation of the rule.
200-0020	(71)(e)	(75)(f)	Add when changes to the netting basis are effective	The changes clarify the instances when the netting basis and PSEL are reduced and matches the intent and past interpretation of the rule.
200-0020	NA	(75)(g)	Add a provision to reduce the netting basis from PTE for sources permitted under division 224 after the baseline period	DEQ is tightening its program by reducing the netting basis from PTE down to the highest actual emissions in the last 10 years since the date of permit issuance for sources permitted under division 224. See explanation in (3)(a)(C) above.
200-0020	NA	(75)(h)	Add a provision that emissions reductions required by rule do not include emissions reductions achieved under OAR 340-226-0110 and 0120 (Pollution Prevention and Operating and Maintenance Requirements under the Highest and Best Practicable Treatment and Control rules.	DEQ is aware that reducing PTE to actual emissions may be a disincentive for sources to voluntarily implement early reductions. Therefore, the proposed rules have been revised for sources that voluntarily implement pollution prevention practices or operational, maintenance and work practice requirements in accordance with OAR 340-226-0110 and 0120. Emissions reductions required to reduce PTE to actual emissions will not include reductions achieved through these mechanisms. This provision will continue to encourage sources to implement voluntary early reductions. In addition, only the netting basis will be reduced to prevent unwarranted offsetting. The PSEL will not be reduced so a source will still be able to utilize the full capacity of a unit that went through PSD without triggering PSD again.
200-0020	NA	(85)	Add definition of ozone precursors	PM2.5 precursors are defined but not ozone precursors
200-0020	(91)	(96)	Change definition of PM2.5 and add EPA's new reference test methods	This definition is consistent with EPA's rules for purposes of Title V and NSR.
200-0020	NA	(96)(b)	Add a provision for PM2.5 precursors	This definition is consistent with EPA's rules for purposes of Title V and NSR.

Division	Rule		Suggested change	Reason/Issues
	Old#	New#		
200-0020	NA	(97)	Add a definition for PM2.5 fraction	See the discussion above in (75)(b)(A)
200-0020	(97)	(103)	Add part 52 to the CFR citations for reference methods	Appendix M of Part 52 includes reference methods for condensable PM.
200-0020	(99)	(105)(a)(B)	Add precursors to definition of regulated pollutant	This is a requirement for State Implementation Plans. See CFR 51.166(b)(1)(i)(a)
200-0020	(99)	(105)(a)(F)	Add GHG to definition of regulated pollutant	This is a requirement for State Implementation Plans. See CFR 51.166(b)(1)(i)(a)
200-0020	(99)(c)	(105)(c)	Clarify the definition of regulated pollutant for pollutants subject to NSR	Ensures that only regulated pollutants with Significant Emission Rates are subject to NSR
200-0020	(126)	(132)	Add exception for GHG emissions impacting Class I areas to the definition of significant emission rate	There is no ambient standard for GHG, so this provision should not apply to GHG emissions.
200-0020	NA	(134)	Add definition of small scale local energy project	House Bill 2952 amended ORS 468A.040 to add an exception for small scale local energy projects regarding net air quality benefit
200-0020	(143)	(150)	Add propylene carbonate to definition of VOC	This pollutant has been added to the list of volatile organic compounds by the EPA.
200-0020			Change the editorial note about the tables not being included with the rules	The Secretary of State will now include links to tables in PDF files
200-0025	NA	(24)	Add CO2e to Abbreviations and Acronyms	CO2e is needed for the definition of greenhouse gases
200-0025	NA	(43)	Add GHG to Abbreviations and Acronyms	GHG is a newly regulated pollutant

Division	Rule	Suggested change	Reason/Issues
200	0040	Change the date for the State Implementation Plan modification	The proposed changes are part of the SIP which will be revised as a result of the proposed changes.
200	Table 1	Add PM2.5 SILs	EPA adopted SILs for PM2.5
200	Table 1	Combine SILs for all air quality areas into one table for all pollutants	Having all SILs in one table will make it easier.
200	Table 2	Add significant emission rate for GHG	EPA adopted a major source threshold and significant emission rate when it defined GHG as a regulated pollutant
200	Table 2	Add significant emission rate for direct PM2.5	EPA adopted a major source threshold and significant emission rate for PM2.5
200	Table 2	Add significant emission rate for PM2.5 precursors	EPA adopted significant emission rates for PM2.5 precursors
200	Table 2	Add significant emission rate for VOC precursors	EPA already adopted significant emission rates for VOC precursors but these were never added to this table
200	Table 3	Remove the metric significant emission rates in metric units	The conversion from English units to metric units is not exact. This has caused problems in compliance with these limits.
200	Table 4	Add de minimis level for GHG	The de minimis level for GHG is set at the GHG reporting threshold. DEQ will evaluate this level upon implementation and make adjustments if necessary.
200	Table 4	Add de minimis levels for PM2.5 in the Medford AQMA	The de minimis levels for PM2.5 are consistent with PM10.
200	Table 4	Add de minimis levels for direct PM2.5	The de minimis levels for PM2.5 are consistent with PM10.
200	Table 5	Add generic PSEL for PM2.5 and GHG	The generic PSEL for GHG is based on proposed SER minus 1000 tpy. The generic PSEL for PM2.5 is based on the proposed SER minus 1 tpy, consistent with other criteria pollutants.
202	0010(4)(a)	Delete the sentence “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.”	This statement applies to all pollutants, not just SO2 and PM10. This sentence was moved to a separate subsection.
202	0010(4)(a)	Delete the words “major” from “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	This change is necessary because when an air quality impact analysis is required under division 225, all permitted sources, not just “major” sources, are included in the modeling analysis, not in the baseline calculation (or background concentration). This is a clarification and aligns this definition

Division	Rule	Suggested change	Reason/Issues
		commenced after January 6, 1975 must not be included in the baseline calculation;"	with the one in division 225.
202	0010(4)(d)	Add a provision for the PM10 baseline concentration in the Medford-Ashland AQMA	The baseline concentration for PM10 in the Medford-Ashland AQMA from the definition in division 225 was added.
202	0010(4)(e)	Add baseline concentration year for PM2.5	The baseline concentration year for PM2.5 is set based on the year when ambient monitoring was done and when the increment was proposed.
202	0060(1)	Delete annual PM10 air quality standard	Revoked by EPA. Since DEQ is limiting PM2.5 to the filterable portion until 1/1/11, the PM10 annual standard has been retained until this rulemaking. Sources would have to model for PM10 and PM2.5 in the interim.
202	0060(2)	Add the lead-in to 0060(2) for PM2.5	The change makes it consistent with 0060(1) for PM10.
202	0210	Include Table of increments in text.	Table is included in text of the rule as allowed by Secretary of State.
202	0210	Add a note that the PM2.5 increments will become effective on one year after the date of the federal register publication.	EPA concluded that it is most appropriate to follow the plain language of the Clean Air Act which calls for a 1-year effective date for implementing increments developed under section 166(a) of the Act.
202	0210	Delete Ed. Note about table not printed in text.	Table is included in text of the rule as allowed by Secretary of State.
202	0210 Table 1	Delete table and insert into text.	Table is included in text of the rule as allowed by Secretary of State.
215	0050	Division 216, Table 2, Part 3 is referenced in this rule and is changing.	Requirement by Secretary of State.
216	0020(6)	Add a provision for Lane Regional Air Protection Agency to be designated by the Commission as the permitting agency in Lane County.	DEQ will delegate authority to Lane Regional Air Protection Agency to implement Air Contaminant Discharge Permit and Oregon Title V Operating Permit programs for regulation of PM2.5 and GHG within its area of jurisdiction. The Regional Agency's program is subject to Department oversight. The requirements and procedures contained in Divisions 200, 224, and 225 pertaining to PM2.5 and GHG shall be used by the Regional Agency to implement its permitting programs until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.
216	0020	Changes are proposed for Table 1 so any rule referencing Table 1 also changes.	Requirement by Secretary of State.
216	0025	Changes are proposed for Table 1 so any rule referencing Table 1 also	Requirement by Secretary of State.

Division	Rule	Suggested change	Reason/Issues
		changes.	
216	0025	Change the editorial note about the tables not being included with the rules	The Secretary of State will now include links to tables in PDF files
216	0040(4)	Add requirement for owner/operator to correct permit application upon becoming aware of error	This is a requirement for Title V sources and should be the same for ACDP sources. EPA raised this issue in their priority sector review.
216	0040	Change the editorial note about the tables not being included with the rules	The Secretary of State will now include links to tables in PDF files
216	0052	Changes are proposed for Table 1 so any rule referencing Table 1 also changes.	Requirement by Secretary of State.
216	0052	Change the editorial note about the tables not being included with the rules	The Secretary of State will now include links to tables in PDF files
216	0054	Changes are proposed for Table 1 so any rule referencing Table 1 also changes.	Requirement by Secretary of State.
216	0054	Change the editorial note about the tables not being included with the rules	The Secretary of State will now include links to tables in PDF files
216	0056	Changes are proposed for Table 1 so any rule referencing Table 1 also changes.	Requirement by Secretary of State.
216	0056	Change the editorial note about the tables not being included with the rules	The Secretary of State will now include links to tables in PDF files
216	0060	Changes are proposed for Table 1 so any rule referencing Table 1 also changes.	Requirement by Secretary of State.
216	0060	Change the editorial note about the tables not being included with the rules	The Secretary of State will now include links to tables in PDF files
216	0064(3)(a)(A)	Correct source category numbers to match Table 1	This is a correction.
216	0064(3)(a)(A)(x)	Add PM2.5 to category 78	Using 5 tons as the threshold for requiring a permit in nonattainment areas provides more protection for the area through source surveillance.
216	0064	Change the editorial note about the tables not being included with the	The Secretary of State will now include links to tables in PDF files

Division	Rule	Suggested change	Reason/Issues
		rules	
216	0066	Changes are proposed for Table 1 so any rule referencing Table 1 also changes.	Requirement by Secretary of State.
216	0066	Change the editorial note about the tables not being included with the rules	The Secretary of State will now include links to tables in PDF files
216	0070	Changes are proposed for Table 1 so any rule referencing Table 1 also changes.	Requirement by Secretary of State.
216	0070	Change the editorial note about the tables not being included with the rules	The Secretary of State will now include links to tables in PDF files
216	0090	Changes are proposed for Table 1 so any rule referencing Table 1 also changes.	Requirement by Secretary of State.
216	0090	Change the editorial note about the tables not being included with the rules	The Secretary of State will now include links to tables in PDF files
216	0020 Table 1, Part B	Add PM2.5 to category 84	Using 5 tons as the threshold for requiring a permit in nonattainment areas provides more protection for the area through source surveillance.
216	Table 1, Part C	Add 100,000 as the threshold for GHG.	The EPA threshold for GHG in the Tailoring Rule is 100,000 metric tons.
216	Table 1, Part C, 5	Exclude GHG and HAPs	100 tons threshold is too low for GHGs and HAPs thresholds are listed in 7 and 8 below.
222	0042	Division 200, Table 3 is referenced in this rule and is changing.	Requirement by Secretary of State.
222	0045	Division 200, Table 2 is referenced in this rule and is changing.	Requirement by Secretary of State.
224	0010(1)	Restructure OAR 340-224-0010 and clarify that division 224 applies to the regulated pollutant for which the area is designated nonattainment or maintenance within nonattainment and maintenance areas	This is a clarification.
224	0010(2)	Clarify that division 224 applies to the regulated pollutant for which the area is designated attainment or unclassified within attainment and unclassifiable areas	This is a clarification.

Division	Rule	Suggested change	Reason/Issues
224	0010(3)	Add provision that clarifies division 224 does not apply sources that do not meet the applicability criteria in OAR 340-224-0010(1) and (2)	This is a clarification.
224	0010(5)	Add applicability for GHG PSD permitting for sources that have already triggered NSR/PSD for other pollutants	This is consistent with EPA's Tailoring Rules for purposes of Title V and PSD.
224	0010(6)	Add applicability for GHG PSD permitting for sources that are major for GHGs and trigger PSD	This is consistent with EPA's Tailoring Rules for purposes of Title V and PSD.
224	0010(7)	Add a provision for Lane Regional Air Protection Agency to be designated by the Commission as the permitting agency in Lane County.	DEQ will delegate authority to Lane Regional Air Protection Agency to implement Major New Source Review program for regulation of PM2.5 and GHG within its area of jurisdiction. The Regional Agency's program is subject to Department oversight. The requirements and procedures contained in Divisions 200, 224, and 225 pertaining to PM2.5 and GHG shall be used by the Regional Agency to implement its permitting programs until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.
224	0050	Add $PM_{2.5}$ precursors in a designated $PM_{2.5}$ nonattainment area to the requirements for sources in nonattainment areas.	This change is needed because of the $PM_{2.5}$ nonattainment areas in the state.
224	0050(1)	Change the requirement that a source must "apply" LAER rather than "demonstrate that the source or modification must comply with" LAER	This is a clarification and aligns the language with 224-0060(1).
224	0050(1)	Add precursors to the LAER requirement	This change is needed because LAER applies to the nonattainment area pollutant and its associated precursors.
224	0050(1)(a)	Reformat to be consistent with 224-0060(1)(a)	This is a clarification.
224	0050(1)(a)(A)	Clarify that LAER applies to each emissions unit that emits the nonattainment pollutant or precursor and it not included in the most recent netting basis	This is a clarification.
224	0050(1)(a)(B)	Clarify that LAER applies to each emissions unit that emits the nonattainment pollutant or precursor and is included in the most recent netting basis but has been modified to increase actual emissions	This is a clarification.
224	0050(1)(d)	Clarify that modifications to individual emissions units that increase the potential to emit less than 10 percent of the SER are exempt from	This is a clarification.

Division	Rule	Suggested change	Reason/Issues
		applying LAER unless certain conditions are met.	
224	0050(3)	Delete federal major source	This section applies to more than just federal major sources.
224	0050(3)(a) and (b)	Clarify that PTE is 100 tons/year or more	This is a clarification.
224	0050(3)(a) and (b)	Delete "NSR" before pollutant because there is no definition of "NSR pollutant" and clarify that the pollutants of interest are those subject to division 224	This is a clarification.
224	0060	Add precursors to the list of pollutants subject to BACT in maintenance areas	BACT applies to non-attainment pollutants, as well as the precursors.
224	0060(1)	Clarify that BACT applies at an SER or above	This is a clarification and aligns the language with 224-0050(1).
224	0060(1)	Add precursors to the BACT requirement	This change is needed because BACT applies to the nonattainment area pollutant and its associated precursors.
224	0060(1)(a)(A)	Clarify that BACT applies to each emissions unit that emits the maintenance pollutant or precursor and it not included in the most recent netting basis	This is a clarification.
224	0060(1)(a)(B)	Clarify that BACT applies to each emissions unit that emits the maintenance pollutant or precursor and is included in the most recent netting basis but has been modified to increase actual emissions	This is a clarification.
224	0060(1)(d)	Clarify that modifications to individual emissions units that increase the potential to emit less than 10 percent of the SER are exempt from applying BACT unless certain conditions are met.	This is a clarification.
224	0070	Clarify that this rule applies to pollutants for which the area is designated as attainment or unclassified	This is a clarification and aligns the language with 224-0050.
224	0070(1)	Clarify that BACT applies at an SER or above	This is a clarification and aligns the language with 224-0050(1).
224	0070(1)	Add precursors to the BACT requirement	This change is needed because BACT applies to the nonattainment area pollutant and its associated precursors.
224	0070(1)(a)(A)	Clarify that BACT applies to each emissions unit that emits the nonattainment pollutant or precursor and it not included in the most	This is a clarification.

Division	Rule	Suggested change	Reason/Issues
		recent netting basis	
224	0070(1)(a)(B)	Clarify that BACT applies to each emissions unit that emits the nonattainment pollutant or precursor and is included in the most recent netting basis but has been modified to increase actual emissions	This is a clarification.
224	0070(1)(d)	Clarify that modifications to individual emissions units that increase the potential to emit less than 10 percent of the SER are exempt from applying BACT unless certain conditions are met.	This is a clarification.
224	0070(2)	Add provision that an air quality analysis is for the pollutant with increases above the SER over the netting basis	This change is recommended as a clarification to the rules consistent with how the rules have been applied.
224	0070(2)(a)	Add provision that increases above the SER for direct PM2.5 or PM2.5 precursors also trigger an analysis of PM2.5.	PM2.5 precursors have to be addressed in attainment and unclassified areas.
224	0070(2)(b)	Change affects to impacts	This is a clarification.
225	0020(3)(a)	Move the sentence “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.” to (f).	This statement applies to all pollutants, not just SO2 and PM10. This sentence was moved to a separate subsection.
225	0020(3)(e)	Add baseline concentration year for PM2.5	EPA set the baseline concentration year for PM2.5
225	0020(6)	Update the reference to the Federal Land Managers' Air Quality Related Values Work Group Phase I Report	A revision has been made to the Phase I Report dated October 27, 2010.
225	0020(12)	Include table in text and delete editorial note about the table not being included	The Secretary of State will now allow tables in text.
225	0020(12)	Include K value for PM2.5	PM2.5 is a new regulated pollutant and requires a K value for modeling analyses
225	0020(12)	Change K value for NOx	The K value for NOx was changed to reflect EPA’s new 1-hour SO2 and NOx standards.
225	0020(13)	Add Class II to the significant air quality impact levels	Class I, II and III area SILs are being combined into one table so this change clarifies which SIL is applicable.
225	0020	Change the editorial note about the table not being included with the	The Secretary of State will now include links to tables in PDF files

Division	Rule	Suggested change	Reason/Issues
		rules	
225	0030(1)	Refer to averaging times by pollutant in Division 202 and delete Table 2.	This table is not necessary since the averaging times are the same as the ambient air quality standard averaging times.
225	0030	Delete the editorial note about the table not being included with the rules	The Secretary of State will now include links to tables in PDF files
225	0045(1)	Clarify that a single source impact analysis is sufficient to show compliance with standards and increments for only the pollutants that trigger PSD	This change is recommended as a clarification to the rules consistent with how the rules have been applied.
225	0045(2)	Clarify the "above" requirement is section (1) of this rule	This is a clarification.
225	0050(1)	Clarify that a single source impact analysis is sufficient to show compliance with standards and increments for only the pollutants that trigger PSD	This change is recommended as a clarification to the rules consistent with how the rules have been applied.
225	0050(1)	Add Class II to the significant air quality impact levels	Class I, II and III area SILs are being combined into one table so this change clarifies which SIL is applicable.
225	0050(2)	Clarify the "above" requirement is section (1) of this rule	This is a clarification.
225	0050(4)(a)(C)	Add PM2.5 significant monitoring concentration	EPA proposed a significant monitoring concentration of 10 ug/m^3 for PM2.5. This value was adopted in the temporary rule on August 19, 2010. EPA has since finalized the PM2.5 NSR/PSD implementing rules and adopted a significant monitoring concentration of 4 ug/m^3 so this change mirrors EPA rules.
225	0050	Change the editorial note about the table not being included with the rules	The Secretary of State will now include links to tables in PDF files
225	0060(2)(a)	Clarify that a single source impact analysis is sufficient to show compliance with standards and increments for only the pollutants that trigger PSD	This change is recommended as a clarification to the rules consistent with how the rules have been applied.
225	0060(2)(a)	Add Class I to the significant air quality impact levels	Class I, II and III area SILs are being combined into one table so this change clarifies which SIL is applicable.
225	0060(2)(a)	Delete the editorial note about the table not being included with the rules	The Secretary of State will now include links to tables in PDF files

Division	Rule	Suggested change	Reason/Issues
225	0060(2)(b)	Clarify the "above" requirement is section (a) of this section	This is a clarification.
225	0060(2)(c)	Clarify that a single source impact analysis is for emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification	This change is recommended as a clarification to the rules consistent with how the rules have been applied.
225	0060(2)(c)	Add Class II to the significant air quality impact levels	Class I, II and III area SILs are being combined into one table so this change clarifies which SIL is applicable.
225	0060	Change the editorial note about the table not being included with the rules	The Secretary of State will now include links to tables in PDF files
225	0090(2)	Add PM2.5 to the list of pollutants for non-ozone areas	PM2.5 was added as a regulated pollutant
225	0090(2)(a)(A) and (B)	Clarify offset requirements for non-ozone areas	The addition of PM2.5 offsets requires clarification from other pollutant offsets
225	0090(2)(a)(C)	Add PM2.5 precursor, SO_2 and NOx, offsets for non-ozone areas	These offset ratios are based the presumptive levels established by EPA in the preamble to Significant Impact Levels (SILs)
225	0090(2)(a)(D)(ii)	Add an alternative provision for small scale local energy projects located in nonattainment areas to provide a net air quality benefit: a reduction of the nonattainment pollutant equal to the ratio specified in this rule if the proposed major source or major modification causes an increase in concentration of less than 5 ug/m^3 (24 hour average) of PM2.5, PM10, SO2, CO, or NOx_{at} all modeled receptors.	House Bill 2952 amended ORS 468A.040 to add an exception for small scale local energy projects regarding net air quality benefit. The modeled concentration of 5 ug/m^3 is the single source impact level allowed in the Lakeview PM_{10} maintenance area in OAR 340-224-0060(2)(c)(C). Offsets are adequate to show a net air quality benefit if modeled results for all pollutants are less than 5 ug/m^3.
225	0090(2)(c)	Correct OAR 240 to OAR 340	This is a correction
225	0090(2)(c)(B)	Correct OAR 240 to OAR 340	This is a correction
225	0090(2)(c)(C)	Add an alternative provision for small scale local energy projects locating inside or causing a significant air quality impact on a designated maintenance area to provide a net air quality benefit: a reduction of the nonattainment pollutant equal to the ratio specified in this rule if the proposed major source or major modification causes an increase in concentration of less than 5 ug/m^3 (24 hour average) of PM2.5, PM10, SO2, CO, or NOx at all modeled receptors.	House Bill 2952 amended ORS 468A.040 to add an exception for small scale local energy projects regarding net air quality benefit. The modeled concentration of 5 ug/m^3 is the single source impact level allowed in the Lakeview PM_{10} maintenance area in OAR 340-224-0060(2)(c)(C). Offsets are adequate to show a net air quality benefit if modeled results for all pollutants are less than 5 ug/m^3.
225	0090(3)	Add an exception for precursor offsets	Emissions of precursor can be used to offset direct $PM_{2.5}$ and vice versa

Division	Rule	Suggested change	Reason/Issues
225	0020 Table	Delete Table	Table is included in text of the rule as allowed by Secretary of State.
225	0030 Table	Delete Table	Averaging times are included in the standards
225	0060 Table 1	Delete Table 1	Class I Significant Impact Levels are being added to Table I in Division 200
228	0300	Update federal reference for 40 CFR Parts 72, 75 and 76 from July 1, 2006	Changes adopted on July 2, 2010
246	0230	Division 216, Table 1, Part B is referenced in this rule and is changing.	Requirement by Secretary of State.

ALTERNATIVE RULE OPTIONS

New Source Review, particulate matter and greenhouse gas permitting requirements and other permitting rule updates

State of Oregon
Department of
Environmental
Quality

In this rulemaking DEQ is proposing to incorporate federal standards for $PM_{2.5}$ and greenhouse gases into Oregon's New Source Review and Prevention of Significant Deterioration Program rules. Since Oregon's rules for the NSR/PSD program differ from the default federal program, Oregon is looking at different ways to implement the program while maintaining stringency equal to the federal program. The main difference between the programs is the process for determining when NSR/PSD is triggered.

DEQ is proposing to trigger NSR/PSD in the same manner in which it is triggered for other pollutants in Oregon. To do this, DEQ proposes to establish a source's netting basis for greenhouse gas and $PM_{2.5}$ proportional to its current netting basis for other pollutants. The netting basis is the emission level in a defined baseline year, adjusted by any required decreases and approved increases of emissions. In Oregon's program, the netting basis is the level from which all other emissions increases and decreases are tracked in determining whether a source triggers NSR/PSD and other regulatory requirements to protect air quality. By setting the netting basis for $PM_{2.5}$ and greenhouse gas proportional to the netting basis for the other pollutants, the new pollutants would be integrated into the NSR/PSD program without changing the regulatory effect of the program on past increases or decreases of the other pollutants.

The approaches proposed to establish the netting basis for $PM_{2.5}$ and greenhouse gas are:

<u>Fine particulates: $PM_{2.5}$</u>

In the proposed rule, a source would need to establish a ratio between its $PM_{2.5}$ and PM_{10} emissions. Once established, the ratio would be applied to a source's current PM_{10} netting basis to calculate a source's $PM_{2.5}$ netting basis. However, sources would also have the option of defaulting to the use of their PM_{10} or particulate matter emissions to establish their netting basis if they did not want to differentiate $PM_{2.5}$ emission and establish a ratio. This would allow a source to make an assumption that all of their particulate matter or PM_{10} emissions are $PM_{2.5}$. In this case, whenever there is an increase in particulate emissions, the source would be required to assume all of those emissions are also $PM_{2.5}$ and subject to the lower $PM_{2.5}$ trigger level for NSR/PSD. This approach to establishing a baseline and netting basis for $PM_{2.5}$ is considered to be Option 1.

<u>Greenhouse gases</u>

For sources with greenhouse gas emissions resulting from fuel combustion, the production rate used to establish the netting basis would also be used to establish greenhouse gas emissions. For sources whose greenhouse gas emissions do not result from fuel combustion, a different

approach would be used. If these non-combustion greenhouse gas emissions are related to the production parameters used to establish the source's netting basis, the greenhouse gas baseline emission rate would be calculated using the relationship between greenhouse gas emissions and the same production parameters. If a source's production parameters do not correspond to their greenhouse gas emissions or if a source did not have a netting basis, baseline emissions would then be set at actual emissions during their highest emission year between 2000 and 2010. This approach to establishing a baseline and netting basis for greenhouse gases is considered to be Option 1.

DEQ is also considering and would like comment on other options described below.

Option 2

Set the baseline emission level according to emissions in the year 1977 or 1978, or a prior time period if it is more representative of normal operation, and calculate the netting basis by adjusting for any required decreases or approved increases since that time. DEQ is considering this period for both $PM_{2.5}$ and greenhouse gases as it is the current procedure for other criteria pollutants.

Sources that were permitted during that time would use the production parameters in their permits to set baseline emissions for $PM_{2.5}$ and greenhouse gases. For sources that did not exist at that time, the baseline levels for $PM_{2.5}$ and greenhouse gases would be set at their potential emissions.

Option 3

Set the baseline emission level according to emissions in the year 2006 or 2007, or a prior time period if it is more representative of normal operation, and calculate the netting basis by adjusting for any required decreases or approved increases since that time. DEQ is considering this period for both $PM_{2.5}$ and greenhouse gases because it closer to the time when these pollutants became regulated and because better data may be available. This is the procedure approved in the temporary $PM_{2.5}$ rules adopted in August 2010.

Option 4

Set the process for determining if a source goes through PSD the same way it is done under EPA's default program. EPA's PSD program typically relies on a rolling 10-year look back period for establishing baseline emission levels used to determine if a source has emission increases above a significant emission rate that would trigger PSD. DEQ is contemplating this option for greenhouse gases only at this time; DEQ would need to reevaluate its entire PSD program to use this option for $PM_{2.5}$, which could not be done in the timeframe of this rulemaking.

Sources would have to examine their actual emissions over the past ten years. They would typically choose the highest two-year period and average the actual emissions over a 12-month period. Generally speaking, once they have determined their highest actual emissions over that 10-year period, they would compare those actual emissions to their actual emissions for the proposed project. If the increase in emissions for

the project is over a threshold, preconstruction review would be required. Under this option, emission control technology requirements would apply only to emission increases from the new physical changes, as opposed to the other three options under which retrofit emission control technology requirements would apply to all physical changes that contributed to emission increases since the baseline year.

Example rule language for Option 4:

340-224-0005
Federal Regulations Adopted by Reference
(1) **40 CFR Part 52.21** (June 3, 2010) except paragraph (a)(1) is by this reference adopted and incorporated herein, for purposes of implementing the Prevention of Significant Deterioration program for greenhouse gases only. The term "permitting authority" means the Oregon Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency.

OPTION	EXPLANATION	CONSIDERATIONS
1. Netting Basis Proportional to netting basis for other pollutants (for process GHG not	For $PM_{2.5}$: Gives sources $PM_{2.5}$ fraction of PM10 netting basis in effect on 03/01/11 or can default to PM_{10} or PM	• Doesn't make projects that have gone through PSD for PM_{10} go through it again $PM_{2.5}$ • Maintains status quo for sources • Consistent with PM_{10} Surrogate Policy

OPTION	EXPLANATION	CONSIDERATIONS
related to production, use actual emissions in the highest year during 2000-2010)	For GHG: For combustion sources, based on the production rate used to establish the current netting basis in effect on 03/01/11 For non-combustion sources, if GHG emissions are related to the production parameters used to establish the netting basis, the GHG baseline emission rate must be calculated using the relationship between GHG emissions and the same production parameters	• Simplifies permitting • Emission control technology requirements would apply to all emission increases from physical changes or changes in the method of operation since the 1977/78 baseline period or last NSR/PSD approval • Fraction of PM_{10} does not necessarily represent actual contribution to ambient air quality during any specified period • If the $PM_{2.5}$ fraction of the PM_{10} netting basis is used, the baseline may be higher than actual emissions in recent years • If all PM is assumed to be $PM_{2.5}$ it could inflate emissions estimates for air shed planning and make competing source analysis more challenging • Netting basis (required reductions) not tied to emission units

OPTION	EXPLANATION	CONSIDERATIONS
2. 1977/78 or a prior time period	Existing baseline year for other pollutants	• Easier to track netting basis for all pollutants based on the same year • Okay for sources that have not made changes to their since 77/78 but would be difficult to use this period if changes have been made, such as shutting down or adding equipment. • Less confusing rules • Use existing baseline production rates in permits • Emission control technology requirements would apply to all emission increases from physical changes or changes in the method of operation since the 1977/78 baseline period or last NSR/PSD approval • Difficult to find old records for process emissions (non-combustion GHGs) • Some emissions units have shut down/changed • Farther away from the year that the National Ambient Air Quality Standard was adopted and baseline concentration year (the year that DEQ starts counting emissions increases and decreases toward the maximum extent to which the ambient concentration of regulated pollutants from new or modified industrial facilities may be allowed to increase over the legally defined baseline concentration in an area with clean air). • Many sources didn't exist then, so they would get zero baseline and would be subject to PSD for any increase over 1 ton above the major source level • Sources that went through NSR/PSD after 77/78 would get potential emissions as baseline
3. 2006 or 2007 or a prior time period	Baseline year in $PM_{2.5}$ temporary rule	• Matches $PM_{2.5}$ baseline concentration year • More recent so it matches current plant configuration • Predates significant recession and potential non-representative emission levels for many sources but not all • Emission control technology requirements would apply to all emission increases from physical changes or changes in the method of operation since the 2006/2007 baseline period or last NSR/PSD approval • Different from other pollutants • Different from the surrogate policy • Sources with actual emissions between 10-14 tpy will have to get standard permits with baseline for $PM_{2.5}$ and double the cost of the permit

OPTION	EXPLANATION	CONSIDERATIONS
4. Federal Netting Method for GHG	10 year look back for actual emissions	• Consistency with federal default program • Levels the playing field across the country, but not for all pollutants • In some cases, sources would be subject to PSD that wouldn't be subject to PSD under Oregon rules. In other cases, sources would avoid PSD that would be subject to PSD under Oregon rules • Different program for different pollutants, could be confusing and result in implementation problems • Does not address all changes before the modification and would not require retrofit emission control technology for previous projects • Allows for small emissions increases not related to proposed project that could cumulate over time (creep) • Does not provide incentive for sources to do early voluntary reductions because reductions more than 5-10 years old cannot be used in netting • Significant training will be necessary for permitting staff

Below are examples of changes made at a facility that show where the federal PSD rules are more stringent than DEQ rules and vice versa. All numbers are for greenhouse gas emissions in tons per year.

EXAMPLE 1 (FEDERAL PSD MORE STRINGENT)									
YEAR	**INCREASE DUE TO PHYSICAL CHANGE**	**NETTING BASIS**	**PSEL**	**FEDERAL ACTUAL EMISSIONS**	**TRIGGER OR PSD?**	**BACT**	**TRIGGER FEDERAL PSD?**	**BACT**	**EXPLANATION**
2010		200,000	200,000	100,000					grandfathered
2015	90,000	200,000	200,000	190,000	NO	NO	YES	YES for most recent change	PSEL $\leq$ netting basis so not subject to PSD under DEQ rules Actual increase > 75,000 so change is subject to PSD under federal rules

EXAMPLE 2 (DEQ PSD MORE STRINGENT)									
YEAR	**INCREASE DUE TO PHYSICAL CHANGE**	**NETTING BASIS**	**PSEL**	**FEDERAL ACTUAL EMISSIONS**	**TRIGGER OR PSD?**	**BACT**	**TRIGGER FEDERAL PSD?**	**BACT**	**EXPLANATION**
2010		100,000	100,000	100,000					grandfathered
2011	60,000	100,000	160,000	160,000	NO	NO	NO	NO	PSEL $\leq$ to netting basis + SER so change is not subject to DEQ PSD Actual increase is less than SER so change is not subject to federal PSD
2022	60,000	220,000	220,000	220,000	YES	YES for the 2011 and 2022 changes	NO	NO	PSEL greater than previous netting basis by more than SER so change is subject to DEQ PSD, reset netting basis, BACT applies to 2011 and 2022 changes. Actual emission increase in last 10 years less than SER so not subject to federal PSD
2033	80,000	300,000	300,000	300,000	YES	YES for most recent change	YES	YES for most recent change	Change triggers PSD under both programs, BACT applies to all changes under DEQ PSD. BACT only applies to most recent change in 2033 under federal PSD.

Summary of public comment and agency response

Title of rulemaking: New source review, particulate matter and greenhouse gas permitting requirements and other permitting rule updates

Prepared by: Jill Inahara and Mark Fisher Date: Feb. 28, 2011

Comment period	DEQ opened the first public comment period Oct. 15, 2010, and closed it Nov. 24, 2010. Nineteen organizations submitted written comments on the proposed rules. DEQ held the following public hearings: 1) Nov. 16, 2010, 6 p.m. DEQ - Medford Regional Office 221 Stewart Avenue, Suite 201, Medford Seven people attended and none testified 2) Nov. 17, 2010, 6 p.m. DEQ - Bend Regional Office 475 NE Bellevue Drive, Suite 110, Bend None attended. 3) Nov. 18, 2010, 6 p.m. DEQ - Headquarters Office, room EQC-A 811 SW 6th Avenue, Portland Seven people attended and none testified. 4) Nov. 19, 2010, 1 p.m. DEQ - Salem Regional Office 750 Front St NE, #120 Seven people attended and none testified. Based on the comments received, DEQ decided to reopen the comment period to allow for additional comment on the different proposed options. DEQ held a second comment period Dec. 9, 2010, through Jan. 14, 2011. Fourteen organizations, some of which commented previously, submitted written comments on the revisions to the proposed rules.
Organization of comments and responses	Summaries of individual comments and DEQ's responses are provided below. DEQ responses are shown in *italics*. Comments are summarized in categories. The persons who provided comments are referenced by number. A list of commenters and their reference numbers follows the summary of comments and responses.
Acronyms used in this document	ACDP = Air Contaminant Discharge Permit BACT = Best Available Control Technology DEQ = Oregon Department of Environmental Quality EPA = United States Environmental Protection Agency EQC = Oregon Environmental Quality Commission NAA = nonattainment area NAAQS = National Ambient Air Quality Standards NO_x = nitrogen oxides

	NSR = New Source Review PAL = Plantwide Applicability Limit PM_{10} = particulate matter less than 10 microns in diameter $PM_{2.5}$ = particulate matter less than 2.5 microns in diameter PSD = Prevention of Significant Deterioration PSEL = Plant Site Emission Limit PTE = potential to emit SILs = significant impact levels SMC = significant monitoring concentration SO_2 = sulfur dioxide tpy = tons per year VOC = volatile organic compounds

Summary of comments and DEQ responses	
1. Actual emissions definition	Under the definition of "Actual Emissions", paragraph 0020(3)(b) should be amended to read *" ....but was permitted or approved to construct and operate ....* " to be consistent with the previous paragraph 0020(3)(a)(C). (7) *Response:* *The change was made to the proposed rule as suggested.*
2. Actual emissions and PTE establishment	DEQ should ensure that its rule would allow using the most appropriate formula (as prescribed by EPA), or continuous emissions monitors to establish actual emissions and PTE. (12) *Response:* *The rule allows for the use of both of these methods to calculate actual emissions and potential to emit.* *Actual emissions are the foundation for the baseline emission rate in most cases, which in turn establishes the netting basis and the Plant Site Emission Limit (PSEL or potential to emit). DEQ rules state that PSELs may be changed when errors are found or better data is available for calculating PSELs. To determine compliance with the PSELs, the rule states that one or more of the following methods may be acceptable:* • *Continuous emissions monitors;* • *Material balance calculations;* • *Emissions calculations using approved emission factors and process information;* • *Alternative production or process limits; and* • *Other methods approved by the Department.* *DEQ is currently updating guidance on how emissions should be calculated to ensure that the best data available is used. No change to the rule is proposed in response to this comment.*

3a. Actual emissions as PTE used to net out of PSD	DEQ clarifies that a source that has a PSEL set based on PTE cannot use the resulting netting basis to net out of PSD for changes that increase emissions elsewhere at the plant. This is a necessary part of DEQ's proposal to give sources that were "permitted but not yet operating during the baseline period" an "actual emissions" amount equal to its PTE. That proposal is under protective and difficult to implement. To the extent that DEQ moves forward that program, however, this exclusion is absolutely essential to preventing sources from illegally expanding emissions from existing sources. (12) *Response:* *The commenter is correct that the proposed rule would allow DEQ to reduce the netting basis - if it is based on PTE - to the highest actual emissions in the 10 years after the end of the baseline period or after permit issuance. This applies to sources that were permitted during the baseline period but did not begin operation and for sources that will go through New Source Review/Prevention of Significant Deterioration after this rule adoption. In addition, it will restrict a source's ability to do a netting action until the baseline is reset based on actual emissions.* *For sources that were permitted or approved to construct and operate but had not yet begun normal operation during the baseline period, existing rules use the PTE as their actual emissions. This provision has been in place since the Oregon program was initially approved by EPA and has not been difficult to implement. The provision ensures that permit applicants evaluate the air quality impacts of the maximum level of emissions that the new or modified source is capable of emitting. DEQ agrees with the commenter that reducing the netting basis before it may be used in netting is more protective and is therefore proposing the reduction in netting basis from PTE to actual emission.*
3b. Actual emissions as PTE used to net out of PSD	Under DEQ's proposal to reduce PTE to actual emissions for sources that were permitted but not operating in the baseline period, if a source makes a physical or operational change, it must ask for its "actual emissions" to be reset before it makes the change. This is essentially an up to 10-year look back period for actual emissions for a source "permitted but not yet operating." This policy seems to insure that any facility making a physical or operational change would have at least 10 years of history to look back to in determining whether the change would significantly increase emissions. (12) *Response:* *The 10-year look back period is to establish actual emissions for a <u>previously approved</u> increase to PTE, not to determine if a previous increase triggers NSR/PSD. The reset is to reduce the netting basis already approved in an earlier modification <u>before</u> a source makes any future physical modifications. This reduction in netting basis will enable DEQ to initially permit a facility using a protective assumption that it could emit at its capacity, but ensure that only the emission level actually achieved during the first years of operation can be used to net a future increase out of NSR/PSD. This change aligns the netting basis closer to actual emissions. No change to the rule is proposed in response to this comment.*
3c. Actual emissions as PTE used to net out of PSD	For example, under DEQ's formulation, a source that has a 2000 – 2010 baseline (either a reset PTE or actual emissions) that decides to make a physical or operational change in 2030 could be exempt from permitting and control requirements if they remained under that 2000 – 2010 baseline, even if they had not actually emitted that much for many years, and even if

	a large number of smaller sources (and cars, residential emissions, etc.) increased the burden of the pollutant in the air shed. (12) *Response:* *Assuming that the reduction in emissions since the baseline period was voluntary, NSR/PSD would not be triggered for that source in the commenter's example. One of the benefits of a fixed baseline period is that it creates an incentive for sources to make early voluntary reductions. With a floating baseline period used in other states, sources have an incentive to delay voluntary reductions until just before planned increases. If the decrease in actual emissions was due to the adoption of emission standards, the netting basis would be reduced by the amount of reduction required by rule. If the reduction was due to the shutdown of an emission unit, the unassigned emission rule (OAR 340-222-0045) would reduce the netting basis if it is greater than a source's PTE. If a large number of smaller sources increased the burden of the pollutant in the air shed and the area becomes a nonattainment area, DEQ will create an attainment plan that will require air quality controls. No change to the rule is proposed in response to this comment.*
3d. Actual emissions as PTE used to net out of PSD	We do not support the proposed language that would require resetting of actual emissions if the source did not achieve its full emissions capacity within 10 years after commencing construction. This approach is bad public policy in that it encourages sources to emit at their maximum permitted level in order to preserve baseline. This also creates serious issues for sources that take a long time to complete construction as they will not have necessarily reached normal operations in enough time to establish a reasonable baseline emission rate. (9) *Response:* *DEQ is aware that this change may be a disincentive for sources to voluntarily implement early reductions. Therefore, the proposed rules have been revised for sources that voluntarily implement pollution prevention practices or operational, maintenance and work practice requirements in accordance with OAR 340-226-0110 and 0120. Emissions reductions required to reduce PTE to actual emissions will not include reductions achieved through these mechanisms. This provision will continue the program's incentive for voluntary early reductions and remove the disincentive for maintaining maximum emissions to preserve baseline. In addition, the ten-year reset period may be extended to 15 years upon demonstration that construction is still underway or normal operation has not been achieved. Further, only the netting basis will be reduced, so only future modifications will be affected. The PSEL will not be reduced, so a source will still be able to utilize the full capacity of a unit that went through PSD without triggering PSD again.*
4. Aggregate insignificant emissions	OAR 340-200-0020(7)(h): The revision to the definition of "Aggregate insignificant emissions" adding a threshold for greenhouse gases needs to include language indicating that the 1,000 short tons value is measured as CO_2 equivalent (CO_2e). (7) *Response:* *The change was made to the proposed rule as suggested. Upon further consideration, DEQ has concluded that the aggregate insignificant emissions threshold for greenhouse gases should be the same as the GHG reporting threshold of 2,500 metric tons/year or 2,756 short tons/year.*

5. $PM_{2.5}$ baseline emission rate and netting basis	A source should have the option of either taking the $PM_{2.5}$ proportionate share of its PM_{10} netting basis or the actual $PM_{2.5}$ emissions from the baseline period. (1, 2, 4, 6, 9, 11, 13, 14, 15, 16, 17) We would prefer that the baseline values for new pollutants (PM2.5 & GHG) be set in proportion to pollutants that have already gone through the PSD process. (20) We support setting a netting basis for $PM_{2.5}$ based on the $PM_{2.5}$ fraction of the PM_{10} netting basis with two caveats: 1) DEQ will increase the $PM_{2.5}$ netting basis by up to 5 tons/yr to allow for sources that made changes in reliance on their PM_{10} netting basis, 2) sources utilizing existing capacity present in the baseline period can use existing equipment to set the PSEL. (1, 3, 13, 23) Sources should not be allowed to choose between existing netting basis or highest actual emissions in the last 10 years for determining a netting basis for PM2.5. We recommend adoption of a 24-month period, as required by the federal program before NSR Reform. In no event should sources be allowed to reach back to higher pollution output before the baseline concentration year. All the same problems arise with this static baseline, but an added layer of complexity arises from the 5 ton per year "true-up." (12) If a facility shuts down one of two production lines because of the recent economic downturn, it should not be able to restart it five or ten years later without trigging PSD. (12) *Response:* *The commenters above provide differing views about the flexibility that a source should have to choose a baseline period and whether a source should be allowed a one-time 5 ton true-up. DEQ is concerned that allowing each source to select the most advantageous baseline period weakens the program and could arguably make Oregon's program less stringent than the federal program, which is strictly prohibited.* *DEQ is proposing to provide only one option. The $PM_{2.5}$ netting basis and PSEL will be set based on the $PM_{2.5}$ fraction of the PM_{10} netting basis and PSEL. Since there is so much overlap between these two pollutants, this ensures that the introduction of the new pollutant ($PM_{2.5}$) doesn't trigger any new requirements if a source is not making any physical modifications or production increases. In addition, it takes into account whether the source has gone through NSR/PSD for PM_{10}. These numbers could diverge in the future as changes are made to the plant, so that either or both pollutants could trigger NSR/PSD or a PSEL modeling analysis.* *Although it does add complexity, DEQ proposes that permit writers be allowed to make a one time true-up of up to 5 tons in the $PM_{2.5}$ netting basis if needed to account for the difference in the significant emission rate for PM_{10} and $PM_{2.5}$. This will avoid retroactively making a source subject to NSR/PSD for $PM_{2.5}$. This is needed because the SER for $PM_{2.5}$ is 5 tons lower than the SER for PM_{10}, so without the true-up, a modification that was approved under the PM_{10} rules could be retroactively in violation of the $PM_{2.5}$ rules. This one time true-up is only for previously approved modifications that increased PM_{10} emissions before $PM_{2.5}$ became a regulated pollutant. All future modifications will continue to be examined for NSR/PSD applicability.* *The $PM_{2.5}$ PSEL is proposed to be the $PM_{2.5}$ fraction of the PM_{10} PSEL. Since PSELs are based on existing equipment, sources will be able to use existing capacity in setting their $PM_{2.5}$ PSEL if the PM_{10} PSEL allows the use of existing capacity. For some facilities, the*

	PSEL is set at less than capacity so it does not allow for the use of full existing capacity. In these instances, the source could request an increase to full capacity in accordance with the PSEL rule. An increase in emissions due to utilizing existing capacity would not be subject to NSR/PSD, but may require an ambient air quality analysis that includes modeling. *In the example cited above regarding shut down of a production line, restarting that production line would not trigger PSD through Oregon's or EPA's program. In both programs, the use of existing capacity without a physical modification would not trigger PSD, so in this respect, the programs are identical.*
6. Greenhouse gas baseline emission rate	We suggest that the Department revise its proposed regulations to allow dual options for how a source calculates its GHG baseline emission rate: either calculating baseline GHG emissions using production parameter or through the use of the actual GHG emissions from the baseline period. (1, 2, 4, 6, 9, 10, 11, 13, 14, 15, 16, 17, 21, 23) If DEQ continues to let sources choose the baseline year from 2000-2010, it should add the sentence "The Department may allow the use of a prior time period upon a determination that it is more representative of normal source operation" in relation to GHGs. (1, 3, 6, 13, 23) We also recommend that the rules be revised to clarify that if a source has gone through PSD for one combustion pollutant, it can set its GHG netting basis based on the production rates used in that PSD analysis. (1, 2, 4, 9, 11, 13, 14, 15, 16, 17, 21, 23) We agree with the baseline emission rate for GHGs as being the actual annual emission rate during any consecutive 12 month period between 2000 and 2010. We also support the clarifications that actual emissions are calculated for those sources or portions of sources that have been permitted, but did not commence normal operation, during the baseline period. (9) Sources should not be allowed to choose between existing netting basis or highest actual emissions in the last 10 years for determining a netting basis for GHG. DEQ should adopt a baseline emission rate definition that captures the existing actual air quality of an area and travels, with the rest of us, across time. We recommend adoption of a 24-month period as required by the federal program before NSR Reform. In no event should sources be allowed to reach back to higher pollution output before the baseline concentration year. (12) *Response:* *The commenters above provide differing views about the flexibility that a source should have to choose a greenhouse gas baseline period.* *In the revised proposed definition of baseline period, the period for GHGs is a consecutive 12-month period between 2000 and 2010, so the baseline emission rate for GHGs will be the actual emissions in that highest 12-month period during those years. Sources will not be given a choice of either the most recent 10 years or the original 1977-1978 baseline period. DEQ is concerned that allowing each source to select the most advantageous baseline period weakens the program and could arguably make Oregon's program less stringent than the federal program, which is strictly prohibited.* *DEQ is proposing the most recent ten years as the baseline period for GHG because GHG*

	is a completely new regulated pollutant. Determining actual emissions as of 1977-1978 could be problematic, especially since GHG emissions from processes are not necessarily tied to GHG emissions from combustion sources that are already included in permits. A more current baseline period for GHG will also align GHGs more closely with the federal program in the initial years of implementation. In addition, DEQ recognizes that there have been considerable economic swings recently that could affect a source's actual emissions so DEQ is proposing a 10 year look-back period to establish the baseline period. *See the response in comment 52 "State NSR/PSD program vs. federal program."*
7. Potential to emit used to establish baseline emission rate or NSR/PSD PSEL	The PSEL should be used to establish a baseline emission rate. The PSEL would change when new air permits are issued and would be a more realistic emission rate for the semiconductor industry than the PTE. It could be ten to twenty years before a semiconductor facility is fully built out. (11) We believe that the current rules should continue to be used to establish the baseline emission rate and PSELs, for new and modified sources, based on the source's PTE. (2, 10) We request that the Department confirm in its response to comments that in light of the proposed revisions to the definition of "actual emissions," the GHG baseline emission rate attributable to equipment will equal the potential to emit of that equipment where that equipment has been approved for construction prior to December 31, 2010 but has not yet begun normal operations by January 1, 2011. (9) The use of PTE during the baseline period, or at initial construction, to set netting basis and PSEL overstates emissions, making it less likely that a source would later trigger NSR/PSD even when making a modification that would significantly increase actual pollution. A policy which bases determinations of significant emissions increases on actual emissions preceding the physical change, would avoid this problem. (12) As DEQ is aware, the Clean Air Act PSD program intended to grandfather existing sources and slowly phase in technology designed to reduce emissions over time as capital improvements were made to aging facilities. By pairing an evaluation of available control technology, and potential capital expenditures on control technology, with a major capital project, Congress intended to avoid a bottleneck of facilities needing to install major equipment, and reasonably phase in controls. Effective implementation of the PSD program, with its dual goals of maintaining clean air and allowing for economic expansion, requires that emissions calculations be revisited on a regular basis (e.g., before a modification causing a significant increase in actual emissions). (12) *Response:* *The commenters above provide differing views about setting the baseline emission rate for sources that are permitted but not yet operating during the baseline period.* *For sources that are permitted to construct and operate during the baseline period but that do not begin normal operations until after the baseline period, DEQ proposes to initially set the baseline emission rate equal to PTE. DEQ confirms that this also applies to the GHG baseline emission rate, which will initially equal the potential to emit of equipment that has been approved for construction prior to December 31, 2010 but has not yet begun normal operations by January 1, 2011. The initial netting basis for existing sources is the baseline*

	emission rate. For new sources that go through NSR/PSD, DEQ proposes to continue setting the netting basis equal to the PTE because that ensures that the maximum air quality impact of the new source or modification is evaluated during permitting. If a new source does not go through NSR/PSD, then the netting basis is zero. *Past experience has shown that most sources never operate and emit at their PTE. Therefore, for sources that have baseline emission rates equal to the PTE, DEQ proposes to require that the "actual" emissions be reset from the PTE to the highest actual emissions ten or more years after the end of the baseline period for GHG sources. See the response in comment 3 "Actual emissions as PTE used to net out of PSD."* *DEQ proposes that the same provision will be applied to new sources that have gone through NSR/PSD. The netting basis will be reset from PTE to the highest actual emissions during the 10 years after NSR/PSD permit issuance. An additional 5 years may be granted if it is demonstrated that a source had not achieved normal operations within the 10 year period.* *This change will remove emissions from the netting basis that will likely never be emitted. It will not prevent the source from operating at the full capacity because the PSEL will not be reduced. However, it will prevent the source from using the "extra" potential emissions for netting a future modification out of NSR/PSD.*
8. Baseline emission rate definition - corrections	The language in the old definition of baseline emission rate already establishes a list of the only reasons a baseline can be changed, so the text about freezing adds confusion. The second concern has to do with the use of term "the Department" in the discussion of how changes are made to the baseline rate. We are concerned that specifying that "the Department determines" could be relied on by a source in an enforcement action to argue that the baseline cannot be recalculated based on, for example, a material mistake or inaccurate statements by a source, unless it was the Department that made the determination that there was a mistake or inaccurate statements. (7) *Response:* *DEQ has proposed changes to the definition of baseline emission rate to clarify when it can be changed. The original reason for freezing the baseline emission rate was to prevent sources from asking for changes based on the discovery of "new" production information that is difficult to verify 30 years after the fact. Therefore, changes have been proposed that only allow the production basis to be changed upon discovery of a material mistake or an inaccurate statement. The word "Department" has also been removed from the definition to allow others to discover a material mistake.*
9. Greenhouse gas PSELs greater than netting basis	We request DEQ clarify that that GHG PSD does not apply for sources that seek to establish a GHG PSEL that is greater than the significant emission rate over the netting basis as a result of utilizing capacity that existed in the baseline year. (15) *Response:* *Section (d) of the definition of major modification in OAR 340-200-0020 clearly states that 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 are not major modifications. Once the baseline emission*

	rate is established, the PSEL may be increased to utilize the full capacity in accordance with the PSEL rule, OAR 340-222-041(3)(b). Since there is no ambient air quality standard or PSD increment for GHG, then there would be no requirement for an air quality analysis to approve an increase in the GHG PSEL.
10. Greenhouse gas baseline emission rate establishment	We request that the rules be revised so that the GHG baseline is established as part of the first permitting action for which an application is submitted after March 1, 2011. (1, 2, 4, 9, 11, 13, 14, 15, 16, 17) *Response:* *Because this rulemaking package will be considered by the EQC in April instead of February, as previously planned, and because new or modified major sources of GHGs alone will not be required to get permits until July 1, DEQ proposes to change the date when $PM_{2.5}$ and GHGs will be added to permits. Permits that are on public notice before July 1, 2011 but not issued yet will not be changed to include $PM_{2.5}$ and GHGs. Any other permits that are on public notice after July 1, 2011 must include $PM_{2.5}$ and GHGs. The proposed rules have been changed to reflect this change in procedure.*
11. Baseline period	We understand that the Department is considering allowing the discharger to choose a year between 2000 and 2010. We see no reason not to choose this approach so long as the source commits to the year and does not change it once the year is elected. We would favor one that provides the greatest flexibility to all permittees. (5) *Response:* *Sources will be able to make a one-time choice of a consecutive 12-month period between the years 2000 and 2010 for the baseline period for greenhouse gases. The baseline period for PM2.5 will be 1977 or 1978, the same as the other NSR/PSD pollutants even though a baseline emission rate will not be established for $PM_{2.5}$. Instead, the netting basis for $PM_{2.5}$ will be established based on the $PM_{2.5}$ fraction of the PM_{10} netting basis (if one exists). Using this approach, there is no need to establish a baseline emission rate for $PM_{2.5}$.*
12. Baseline period for $PM_{2.5}$ precursors	The baseline period for $PM_{2.5}$ precursors should be consistent with the baseline period for $PM_{2.5}$. Otherwise, sources will be routinely forced into PSEL review, PSD or nonattainment NSR for $PM_{2.5}$ precursors even though $PM_{2.5}$ does not trigger the same review. (1, 2, 4, 11, 13, 14, 15, 17) *Response:* *$PM_{2.5}$ precursors (SO_2 and NO_x) are already regulated criteria pollutants under the NSR/PSD program. Since the initial $PM_{2.5}$ netting basis is the $PM_{2.5}$ fraction of the PM_{10} netting basis, $PM_{2.5}$, PM_{10}, SO_2, and NO_x will all have the same baseline period for most sources. If a source has triggered NSR/PSD for one pollutant and not the others, the netting basis will be based on different production rates for different pollutants, which is consistent with how the program is currently implemented. Introducing different baseline years for precursors would be administratively impractical. No change to the rule is proposed in response to this comment.*
13. Baseline period tied to baseline	We are concerned that DEQ's proposal fails to adequately match the baseline period and baseline concentrations. If individual emissions levels are not set from the same date range as the monitoring data, then DEQ's rules will not ensure compliance with the national

concentration year	ambient air quality standards (NAAQS) or PSD increment. If DEQ decides to implement the PM2.5 PSD program through the PSEL program, DEQ should mandate that the baseline emission rate be set for the same period for which DEQ has monitoring data, or at the very least implement stringent guidelines that direct the limited instances when a different baseline period may be chosen. (12) *Response:* *DEQ believes that it is not feasible to link the baseline period and the baseline concentration year. Instead, DEQ determines the actual emissions of sources during the baseline concentration year at the time that a PSD increment analysis is conducted. The baseline period for emissions is the year that DEQ starts counting emissions increases and decreases from a source toward applicability of the NSR/PSD program. It is a fixed period for each pollutant, regardless of the source's location.* *The baseline concentration year is the year that DEQ starts counting emissions increases and decreases in an area for assessing consumption of the PSD increment, and it varies by pollutant and area of the state. Default baseline concentration years for assessing degradation of air quality are based on when DEQ initially made the determination that areas of the state were in attainment or nonattainment with an ambient air quality standard. Baseline concentration years have also been established for specific areas that were not in attainment with a standard but subsequently were re-designated to attainment.* *Because the baseline concentration years are different for different pollutants and the baseline periods do not correspond to the baseline concentration years, DEQ does not rely on the baseline emission rates associated with a baseline period to assess the impacts of emission increases in an area. The analysis is case-by-case depending on the source and the range of influence of its emissions. If the emission increases from a new or modified source cause an impact greater than the significant impact level for a pollutant, then the emission increases since the baseline concentration year from other nearby sources must be evaluated along with the emissions from the new or modified source to determine whether a PSD increment could potentially be exceeded. Only the emission increases (and decreases) since the baseline concentration year must be evaluated, but in many cases, the total allowable emissions of the sources is used to evaluate the impacts as a conservative analysis. The inventory of emission increases since the baseline period may be evaluated in more detail if the initial conservative analysis indicates that the PSD increment could potentially be exceeded.* *In this rulemaking DEQ proposes 2007 as the baseline concentration year for $PM_{2.5}$ because 2007 is the middle year of the 3 years (2006 through 2008) when ambient monitoring was conducted to determine whether areas of the state are in attainment or nonattainment with the standards. DEQ does not propose establishing a baseline concentration year for GHG because there is no ambient air quality standard for GHG.* *The baseline concentration year is not used in determining whether a NAAQS could potentially be exceeded. For the NAAQS analysis, the emissions from the proposed new or modified source along with other source emissions in the nearby area are modeled and the impacts are added to the background concentration to determine whether a NAAQS could potentially be exceeded. No change to the rule is proposed in response to this comment.*

14. Federal major source definition	OAR 340-200-0020(54): The revision to the definition of "Federal Major Source" is not consistent with the EPA requirements as set forth in the "Tailoring Rule." Essentially, there is a two-part test in order to determine a Federal Major Source with respect to GHGs. First, GHGs must be a regulated air pollutant, that is the source must have the potential to emit 100,000 tpy or more on a CO_2 equivalent (CO_2e) basis. Then the source must also have the potential to emit 100 or 250 tpy or more of an individual GHG on a mass basis. (1, 2, 4, 7, 9, 11, 13, 14, 17, 23) *Response:* *The change was made to the proposed rule as suggested.*
15. Federal major source, major source and major modification definitions regarding fugitive emissions	We request that DEQ revise the definition of "major source" to exclude fugitive emissions from consideration except in relation to sources in one of the designated source categories. EPA's Tailoring Rule is clear that fugitive GHG emissions need only be considered in determining PSD and Title V applicability for sources within one of the designated source categories. Nonetheless, although DEQ has stated that it intends to be no more stringent than that Tailoring Rule requires, it is proposing that fugitive GHG emissions must be included for all sources when determining PSD or Title V applicability. (1, 2, 4, 9, 11, 13, 14, 16, 17, 23) *Response:* *Fugitive emissions have always been included in determining whether a source is a major source in Oregon in accordance with OAR 340-224-0100:* *"Fugitive emissions are included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents."* *In Oregon, fugitive emissions 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. In the federal program, fugitive emissions means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. If DEQ were to change the way fugitive emissions are handled, then the definition would also need to be changed. The proposed revisions to the definitions of federal major source and major source ensure that they are consistent with OAR 340-224-0100. This is a clarification of the rules and is not a change in implementation or policy. Including fugitive emissions in the calculation of all emission rates is also more protective of the environment. No change to the rule is proposed in response to this comment.*
16. Greenhouse gas definition	DEQ should revise the proposed definition of "greenhouse gas" to exclude CO_2 emissions from biomass effective upon the date that EPA authorizes the removal of biomass GHG emissions from PSD consideration. EPA has promised to finalize its decision in 2011 on whether biomass related CO_2 emissions must be counted in determining PSD applicability. If EPA concludes that the CO_2 emissions from biomass should not be counted, then, consistent with Oregon's policy of promoting responsible utilization of biomass, the Oregon rules should automatically implement the EPA position. (1, 2, 4, 11, 13, 14, 15, 17, 23) As [former] Governor Kulongoski has repeatedly stated, biomass is key to Oregon's economic future as well as to reducing greenhouse gas emissions. DEQ should adopt rules that ensure that as soon as possible, the regulations will reflect the preference for the

	burning of renewable biomass as opposed to non-renewable fossil fuel. (16) *Response:* *On 01/12/2011, EPA announced its plan to defer, for three years, greenhouse gas permitting requirements for carbon dioxide (CO2) emissions from biomass-fired and other biogenic sources. By July 2011, EPA plans to complete a rulemaking to implement this deferral. During the three-year period, the EPA plans to seek input on critical scientific issues from its partners within the federal government and from outside scientists who have relevant expertise. Before the end of the three-year period, the agency intends to issue a second rulemaking that determines how these emissions should be treated or counted under GHG permitting requirements.* *EPA will also plan to issue guidance shortly that will provide a basis that state or local permitting authorities may use to conclude that the use of biomass as fuel is the best available control technology for GHG emissions until the agency can complete an action on the three-year deferral in July.* *DEQ has proposed a change to the definitions of "greenhouse gases" to exempt CO_2 derived from biomass from PSD and Title V permitting during the three-year EPA deferral period.*
17. Sequestering of carbon based emissions	Many company owners will be faced with higher fees and administrative costs, without realizing the benefit of forest ownership that sequesters CO_2 and GHG emissions. Starting in 2011 many forest owners in New Zealand have the options of receiving "carbon credits" and using these credits as offsets or selling them and receiving income for the sequestering of carbon based emissions. The current ODEQ and EPA policies do not take these issues into account for parties that own CO_2 sequestering assets. (8) *Response:* *As noted in the comment, EPA did not address CO_2 sequestering in the greenhouse gas tailoring rule. Because offsets are not required under the PSD program, the PSD program does not create a market for carbon credits and it is not necessary for DEQ to address CO_2 sequestering in this rulemaking. If EPA establishes a requirement for carbon credits in a future rulemaking, DEQ will assess the need for state rules at that time. No change to the rule is proposed in response to this comment.*
18. Major modification definition	In Oregon, to qualify as a major modification, a change must result in "an increase in the PSEL" over the significant emission rate over the netting basis. The focus of the determination must be on whether actual emissions increase, not whether the permit limit changes. (12) *Response:* *The use of the PSEL to define whether a facility's changes qualify as a major modification is the basis of Oregon's NSR/PSD program. EPA evaluated and initially approved the DEQ NSR program in 1982 and more recently in 2003 as being equivalent or more stringent than EPA's regulations on a program basis.* *When determining whether NSR/PSD is triggered, DEQ requires sources to use projected*

	potential emissions from the modification rather than projected actual emissions, as required by EPA. DEQ's approach is more stringent because sources would trigger NSR/PSD earlier since potential emissions are higher than actual emissions. *Changes to the definition of major modification are proposed to clarify that the trigger for NSR/PSD is a "PSEL that exceeds the netting basis by an amount that is equal to or greater than the significant emission rate." The current definition of major modification says that there must be a PSEL "increase" over the netting basis. This change is proposed to clarify past practice in implementing the NSR/PSD program. In some cases the PSEL could even decrease from the permitted value and NSR/PSD would still be triggered if the resultant PSEL is more than the netting basis by a SER. See the response to comment 25 "Netting basis definition."*
19. Major modification definition allows automatic netting	A problem with Oregon's program is that it requires a "major modification" to result in an increase in permitted (not actual) emissions that is equivalent to an increase over the SER on a plant-wide basis. Instead of focusing on the pollution increase from the new emissions unit, Oregon's program determines whether an emissions increase is significant by reference to the entire facility. In this way, Oregon's program features "automatic netting" based on a permit limit from the 1970s, or in the case of one of the proposed rules, from the more recent baseline period. Thus, so long as the source had a PSEL in excess of emissions projected from the source after a physical or operational change, and never banked those emissions, no PSD permit is required. (12) *Response:* *Oregon's NSR/PSD program does look at increases over the netting basis for the whole facility rather than individual emissions units. However, sources must accumulate ALL increases and decreases from ALL emissions units in determining whether NSR/PSD is triggered. This approach eliminates the ability of sources to disaggregate changes at a facility that are involved in a project (possible under the federal program) in order to avoid NSR/PSD. If NSR/PSD is triggered, sources are required to apply retrofit Best Available Control Technology to all the emissions units that contributed to the increase, not just the current project.* *In 2001, Oregon's PSEL and NSR rules were changed to reduce the concern described by the commenter as "automatic netting." When a source shuts down an emissions unit, those emissions can potentially make the netting basis higher than the source's current PTE. Unassigned emissions are the difference between the netting basis and what a source could emit based on its current physical and operational design. The PSEL rules were changed to limit unassigned emissions, and to establish the process for reducing unassigned emissions and the netting basis. Unassigned emissions that are removed from the netting basis cannot be used in future netting actions, nor can they be sold or banked.* *The proposal to reset actual emissions and netting basis described in response to comment 3 will further reduce the opportunity for "automatic netting." No change to the rule is proposed in response to this comment.*
20. Major modification definition –	What is particularly confusing is how a source could legally qualify for the definition of "major modification" that requires that sources have "obtained all permits to construct and operate after the applicable baseline period but have not undergone New Source Review?"

before PSD program established	If a source was permitted during the baseline period and had not begun normal operation, it should only get PTE if it "commenced" construction during the baseline period. (12) *Response:* *DEQ and EPA anticipated the possibility that a source that was permitted to construct would not begin construction immediately as provided for in OAR 340-224-0030 (2)(a):* *Approval to construct becomes invalid if construction is not commenced within 18 months after the Department issues such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the scheduled time. The Department may extend the 18-month period for good cause.* *A PSD permit is valid if the above criteria are met. Otherwise, the PSD permit would be terminated and a new permit would be required if construction were not commenced within the allowed time period. No change to the rule is proposed in response to this comment.*
21. Major modification definition – revised language	Under the definition of "Major Modification", we found the new language in subparagraph (d) confusing. Based on the new language in the definition of "actual emissions" we understand that Oregon wants to allow a source to either reset the netting basis or exclude a portion of the netting basis when determining whether a new proposed change would be a major modification. We recommend that this provision more clearly spell out how a major modification would be determined when the netting basis hasn't been reset (i.e., how you exclude a portion of the netting basis). (7) *Response:* *Changes have been made to this portion of the proposed definition of major modification to clarify the intent. For existing greenhouse gas sources and sources that add new equipment that are permitted at their potential to emit, the netting basis and the PSEL from these equipment will need to be tracked separately from the existing netting basis and PSEL of existing equipment.*
22. Major source definition	OAR 340-200-0020(70): The revision to the definition of "Major Source" has the same problem as the revised definition of "Federal Major Source" in that it doesn't correctly reflect the two-part test for GHGs. In addition, the 100,000 tpy threshold needs to include language specifying that it is measured as CO_2 equivalent (CO_2e). (1, 2, 4, 7, 11, 13, 14, 15, 17) *Response:* *The change was made to the proposed rule as suggested.*
23. Major source definition to include emission decreases	We request that DEQ revise the proposed revisions to the definition of "major source" to allow the inclusion of emissions decreases. Given Oregon's unique means of applying the term "major source" including future increases and excluding future decreases in emissions would force sources that were making net reductions to be considered major sources and be subject to requirements such as nonattainment new source review. (1, 2, 4, 11, 13, 14, 15, 17, 23) *Response:* *DEQ agrees that emission decreases should be in the calculation of potential to emit of a*

	source. The change will also be made to the definition of federal major source.
24. Netting basis definition allows thirty-year "lookback" period	Another problem with Oregon's PSEL approach is that the PSEL is not based on projected or actual emissions during a time-frame that is contemporaneous with the physical or operational change in question, but during the "baseline period." The baseline emission rate is then adjusted as rules change and future permitting decisions are made. The adjusted baseline is referred to as the "netting basis." The resultant "netting basis" in many cases may not reflect actual emissions at any time that is reasonably contemporaneous with the physical or operational change in question. In fact, the "netting basis" reflects a thirty-year "lookback" period, in clear contravention of the federal regulatory floor. Thus, the PSELs are unenforceable on a practical level. (12) *Response:* *DEQ does agree that the netting basis may or may not reflect actual emissions that are contemporaneous with the physical or operational change in question. However, this does not mean the federal program is more stringent than the Oregon program. While modifications at individual facilities may be evaluated differently under the federal and Oregon programs, EPA has determined that the programs are equivalent overall. PSELs and netting basis provide a simple and enforceable mechanism for evaluating whether sources are subject to NSR/PSD as a result of physical changes or changes in the method of operation.* *At the time of a physical or operational change, actual emissions may be more or less than the netting basis. This is because the PSEL could have been increased to allow utilization of existing capacity, and the source may be operating at higher capacity than in the baseline period or the emissions may have decreased due to voluntary reductions. If the contemporaneous actual emissions are greater than the netting basis, this component of the Oregon NSR/PSD test is a more stringent test than the federal. If the contemporaneous actual emissions are less than the netting basis, this component of the Oregon NSR/PSD test may be less stringent than the federal. In both cases, however, using the PTE after the physical change in the NSR/PSD test makes the Oregon test more likely to trigger NSR/PSD than if the projected actual emissions were used as in the federal test.* *DEQ does not agree that PSELs are unenforceable. Each permit includes compliance monitoring in accordance with OAR 340-222-0080. This monitoring meets the federal requirement to be practically enforceable because it can be determined on at least a monthly basis. If a source violates the PSEL, DEQ is able to take direct enforcement action against the source.*
25. Netting basis definition	DEQ recently released an interpretation of "netting basis" in regards to PGE's Boardman plant. This interpretation stated that decreases required by rule would take effect on the netting basis upon adoption by the agency. PGE had announced plans to build an entirely new generating facility at the Boardman site. Without this new DEQ interpretation of netting basis, PGE could have constructed that new facility without ever subjecting it to PSD review because their actual emissions were massively below their allowable emissions. PGE would not have had to increase their PSEL to allow operation of the new facility, and therefore would not trigger PSD review. As commenters pointed out in response to DEQ's proposed permit for PGE Boardman,

which advanced this new interpretation, the interpretation would lead to absurd results, potentially subjecting facilities to PSD review for projects that decreased emissions. (12)

Response:
A combination of existing rules together require that the netting basis be reduced at the time an emission standard is adopted, whereas the PSEL is reduced at the time a source is required to comply with the new emission standard. In response to the situation noted in the comment, DEQ developed an internal management directive to clarify how these rules work together. If the netting basis is not reduced at the time the rule requiring a reduction is adopted, the source could reduce emissions prior to the compliance date (in this case, up to 7 years later) and use the emission reductions to avoid PSD for other projects. This would result in a source using a rule-required reduction in netting, which is not allowed under Oregon's federally approved State Implementation Plan.

The commenter mentioned that facilities could be subject to PSD review for projects that decreased emissions, which is correct. The two part test for whether a major modification is triggered is a physical change or a change in the method of operation and a PSEL that results in an increase over the netting basis by more than the significant emission rate. A source's projected PSEL from the major modification could actually decrease from its current PSEL and still trigger NSR/PSD. This is because a source's PSEL can be higher than the netting basis due to the use of existing capacity as long as it has not made a physical change or a change in the method of operation at the facility. The PSEL can also be higher than the netting basis because of previously approved increases due to physical modifications that did not trigger NSR/PSD. If the source then makes a physical change or change in the method of operation, the new PSEL can be lower than the existing PSEL but over the netting basis by more than a significant emission rate. Increases in the PSEL from the use of existing capacity must be tracked separately from increases due to physical modifications.

Example:

Year	*Netting Basis (tpy)*	*PSEL increase [existing capacity] (tpy)*	*PSEL increase [new equipment] (tpy)*	*PSEL (tpy)*	*SER (tpy)*
2000	*100*	*30*	*20*	*150*	*40*
2009	*100*	*0*	*45*	*145*	*40*

In the example above, NSR/PSD was not triggered in 2000 because the increase in PSEL over the netting basis for new equipment (20 tpy) was not over the SER. The change in 2009 did trigger NSR/PSD since the increase in the PSEL over the netting basis for new equipment (45 tpy) was greater than the SER even though the PSEL decreased from 150 tpy to 145 tpy. This clarification was made in the definition of major modification (see the response in comment 18 "major modification definition").

26. Ozone precursor definition

OAR 340-200-0020(84): The new definition of "Ozone Precursor" should include language regarding the measurement methods similar to the language in the definition of "PM_{10}" when used in context of emissions especially to distinguish between ambient NO_2 and NO_x emissions. (7)

Response:
The change was made to the proposed rule as suggested.

27. Conditional test method citation	OAR 340-200-0020(95)(b): We assume ODEQ removed the conditional test method (CTM) citation because CTMs are no longer being developed. We recommend that other test method (OTM) 027 for $PM_{2.5}$ and PM_{10}, that has superceded CTM 040, be cited here. As with the current definitions of "PM" and "PM_{10}," this definition needs to reference the appropriate EPA or ODEQ emissions measurement method in order to distinguish ambient $PM_{2.5}$ from $PM_{2.5}$ emissions. (7) *Response:* *EPA reference test methods for PM_{10} and $PM_{2.5}$ (**Methods 201A and 202 - Methods for Measurement of Filterable PM10 and PM2.5 and Measurement of Condensable PM Emissions from Stationary Sources**) were promulgated on December 1, 2010 and became effective on January 1, 2011. These revised EPA methods have replaced Other Test Method (OTM) 27 and 28 and have been added to the proposed definitions of PM_{10} and $PM_{2.5}$.*
28. Regulated air pollutant definition	OAR 340-200-0020(103)(a)(B): It isn't clear that the provision in the definition of "Regulated air pollutant" or "Regulated Pollutant" that references the national ambient air quality standards (103)(a)(B) includes any precursors to such pollutants. This should be clarified in the text. (7) *Response:* *The change was made to the proposed rule as suggested.*
28. Volatile organic compounds definition	OAR 340-200-0020(148)(d): Note that paragraph (d) in the definition of "Volatile Organic Compounds" appears to be missing the last line. The EPA definition of the term in 40 CFR5l.100 includes a few more words and the identification of the actual compound subject to the provision. (7) *Response:* *The correction was made to the proposed rule as suggested.*
29. Significant impact levels	OAR 340-200, new Table 1: The new Table 1 SIGNIFICANT AIR QUALITY IMPACT includes Class III impact levels for SO_2 that are higher than the Class II impact levels established by EPA. Oregon will need to submit a demonstration that such higher levels will still ensure protection of the NAAQS in Class III areas. Also new Table 1 specifies Significant Air Quality Impact values for $PM_{2.5}$ of 0.2 ug/m3 (annual arithmetic mean) and 1.0 ug/m3 (24-hour average) respectively. These differ from the corresponding Class II and III areas $PM_{2.5}$ SILs of 0.3 ug/m3 (annual arithmetic mean) and 1.2 ug/m3 (24-hour average) established by EPA. Please clarify why these values are different. (7) We believe that DEQ should establish $PM_{2.5}$ SILs consistent with the federal SILs. (1, 2, 4, 10, 11, 13, 14, 15, 17) *Response:* *The Class III SO_2 SILs will be changed to match EPA's Class II SO_2 SILs.* *DEQ's Class II and Class III SILs for $PM_{2.5}$ adopted in the August 2010 temporary rules are lower than EPA's values to be consistent with the lower SIL levels adopted in the early*

	1990's for PM_{10} due to significant air quality problems in the Medford area. Upon reconsideration, DEQ proposes to adopt EPA's $PM_{2.5}$ SILs for all areas. The change was made to the proposed rule as suggested.
30. Error in Table 1	OAR 340-202-0210, Table 1: There is a typo in Table 1. For Class I areas, the PM_{10} increments should be 4 and 8 ug/m^3 respectively for the annual arithmetic mean and 24-hour maximum respectively. (1, 2, 4, 11, 13, 14, 17) *Response:* *The changes were made to the proposed rule as suggested.*
31. Greenhouse gas in CO_2e	OAR 340-216-0020, Table 1 Part C (No.5): It must be clear that the 100,000 tons of GHG here is in terms of CO_2 equivalent (CO_2e), not mass emissions. See comments on OAR 340-200 above regarding GHG emission thresholds. (1) *Response:* *The change was made to the proposed rule as suggested.*
32. $PM_{2.5}$ significant emission rate in Medford	We suggest that DEQ clarify the significant emission rates applicable for $PM_{2.5}$ in Medford. The rates identified are for PM_{10}/$PM_{2.5}$ without any indication as to whether that is direct $PM_{2.5}$, precursors or some combination of the two. Due to the different regulation of $PM_{2.5}$, we do not believe that the Medford significant emission rates should include $PM_{2.5}$ at all. (1, 3, 13, 23) *Response:* *The change was made to the proposed rule as suggested.*
33. Reporting requirement	OAR 340-218-0040(2) requires that Title V applicants supplement their applications during the time period where the application is being evaluated and acted on. This is very different from the apparently open ended requirement being proposed for ACDP sources. Because of the potentially far reaching impacts of this regulation, and the lack of discussion about it prior to proposal, we strongly urge the Department to withdraw the provision. If DEQ retains the provision, we request that similar language from the Title V rules be added so that it is clear that this requirement applies while the permit application is under review. (1, 2, 4, 11, 13, 14, 15, 17) *Response:* *The added language for Air Contaminant Discharge Permit applications comes directly from the Title V permit application requirements in OAR 340-218-0040(2): Duty to supplement or correct application. <u>Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.</u> In addition, an applicant must provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.* *The duty to supplement or correct information extends beyond the period in which the application is being considered and acted upon. If it were limited to the evaluation period, an applicant could conceal certain facts and upon permit issuance could argue that is was*

	relieved of the obligation to supplement or correct. Or an applicant could make a critical mistake and omit information that would have required the source to comply with a significant requirement and yet not be obligated to later raise the issue to DEQ. Based on concerns raised by the EPA in its priority sector review, this language was added to the ACDP application requirements. No change to the rule is proposed in response to this comment.
34. Greenhouse gas PSD applicability prior to July 1, 2011	OAR 340-224-0010(5): This new applicability provision for GHGs needs to include language indicating that the 75,000 tpy value is measured as CO_2 equivalent (CO_2e). (7) We request that the Department revise its GHG PSD applicability provisions proposed for inclusion in OAR 340-224-0010(5). We believe that what was intended was to require new Federal Major Sources that also have a GHG PTE of 75,000 tons/year to have to undergo PSD for GHGs. Likewise, we believe that existing Federal Major Sources that have a significant emissions increase of a non-GHG regulated air pollutant and a GHG emissions increase of 75,000 tons/year or more over the netting basis would be subject to PSD for GHGs. As proposed, the underlined elements are missing from the rule resulting in the Oregon proposed rule being far more stringent than the federal rules. (1, 2, 4, 9, 11, 13, 14, 17) *Response:* *The change was made to the proposed rule as suggested.*
35. Greenhouse gas PSD applicability after July 1, 2011	OAR 340-224-0010(6): This new applicability provision for GHGs needs to include language indicating that the 100,000 tpy value is measured as CO_2 equivalent (CO_2e) and that a new stationary source or an existing stationary source is subject to regulation when it emits, will emit, or has the potential to emit 100,000 tpy or more. (7) We request that the Department revise its GHG PSD applicability provisions proposed for inclusion in OAR 340-224-0010(6). We believe that what was intended was to require existing Federal Major Sources to undergo PSD for GHGs only if they request a GHG emissions increase of 75,000 tons/year or more over the GHG netting basis. As proposed, the rule requires the source to be regulated even if the ultimate GHG PSEL requested does not exceed the netting basis by an SER or more. We suggest that the rule be changed to remove this possibility. (1, 2, 4, 9, 11, 13, 14, 17) *Response:* *The changes were made to the proposed rule as suggested.*
36. Additional requirements for sources in nonattainment areas	OAR 340-224-0050(3): The additional requirements for sources in nonattainment areas are only required to apply to sources that are major for the nonattainment pollutant. Since GHGs are not criteria pollutants and never will be nonattainment pollutants, these provisions need not apply to GHGs. However, if ODEQ does include GHGs here, it needs to include language indicating that the 100,000 tpy value is measured as CO_2 equivalent (CO_2e). (7) *Response:* *Greenhouse gases were removed from this section as suggested.*
37. OAR 340-224-0060(1)	For consistency and accuracy, the text in 0060(1) should be amended to read *" ... must apply BACT for each maintenance pollutant or precursor(s) emitted at* or above *a SER. "* (7)

	Response: *The change was made to the proposed rule as suggested.*
38. BACT for $PM_{2.5}$ precursors	We request that the Department revise its regulations to clarify that sources triggering BACT for a $PM_{2.5}$ precursor (e.g. NOx out of a boiler) do not necessarily trigger BACT for direct $PM_{2.5}$ coming out of an unrelated emission unit (e.g., a planer). Due to Oregon's program being so different from the federal program in this regard, it is necessary to clarify that triggering BACT for a $PM_{2.5}$ precursor would not then trigger BACT for all direct $PM_{2.5}$ emission units, and vice versa. (1, 3, 13, 23) *Response:* *DEQ agrees that BACT does not apply to direct PM2.5 or PM2.5 precursors if they are not emitted at a SER over the netting basis. The change was made to the proposed rule as suggested.*
39. BACT applicability	DEQ's rules currently state that equipment installed after the baseline period must undergo BACT. However, we believe that this regulation should be revised to recognize that equipment authorized to be installed in the baseline period should not be subject to BACT when it is constructed. That would place equipment installed without authorization during the baseline period in a better position than equipment permitted, but not yet installed, during the baseline period. (9) *Response:* *DEQ agrees that if the emissions unit was included in the netting basis because it was permitted during the baseline period, then retroactive BACT would only apply to the emissions unit if it is modified and there is an increase in emissions. A change was already proposed that addressed this issue but an additional change was made for further clarification.*
40. OAR 340-224-0070(2)(a)	To be consistent with paragraph 0070(2), paragraph 0070(2)(a) should be amended to read *"For increases of $PM_{2.5}$ precursors equal to or greater than the precursor significant emission rate, ... ".* (7) *Response:* *The change was made to the proposed rule as suggested.*
41. OAR 340-224-0070(5)	It is not clear why this new provision for sources impacting $PM_{2.5}$ nonattainment areas is necessary. It appears to duplicate the requirement of 340-224-0070(2)(b). Since 340-224-0050(2) refers to 340-225-0090 both 0070(2)(b) and this new 0070(5) appear to require the same thing. (7) *Response:* *OAR 340-224-0070(5) was deleted from the proposed rule as suggested.*
42. $PM_{2.5}$ Precursor Air Quality Analysis	In OAR 340-224-0070(2)(a), DEQ proposes to require that where a federal major source or a major modification at a federal major source results in an increase of $PM_{2.5}$ precursors of an SER or more, the source must provide an analysis of $PM_{2.5}$ impacts. However, there is no basis for an individual source to model indirect $PM_{2.5}$ emissions. Therefore, the rule should

	be revised to state that the source must provide an analysis of direct $PM_{2.5}$ air quality impacts. (1, 2, 4, 11, 13, 14, 17) *Response:* *As EPA stated in the preamble to the final rule* ***Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM2.5) – Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC):*** *"The impacts of PM2.5 precursors on ambient concentrations of PM2.5 cannot be determined from the dispersion models that EPA has currently approved for modeling individual PSD sources. Such models are not designed to consider chemical transformations that occur in the atmosphere after the precursor emissions have been released from the source. Consideration of these transformations is necessary to be able to add precursor impacts into the total modeled ambient PM2.5 concentrations for comparison to the SILs for PM2.5. The technical tools needed to complete a comprehensive analysis of all emissions that contribute to ambient concentrations of PM2.5 are only in the developmental stage; nevertheless, we believe that it would be inappropriate to restrict the regulatory language in such a way that future regulatory amendments would be required to enable the inclusion of precursor impacts in the PM2.5 analysis as the necessary technical tools become available. Estimating techniques are being developed that will be able to be applied to the PM2.5 analysis in the near future, which could not be required if the regulatory language precluded them. We acknowledge the concerns that have been expressed by some commenters about the shortcomings of not considering the impacts of PM2.5 precursors under the PM2.5 air quality analyses. Accordingly, we believe that the new provision for applying the SILs for PM2.5 to the required analyses for the NAAQS and increments should not be self-limiting by specifying the use of only direct PM2.5 emissions. Instead, the new provision contained in this final rule provides that the test will be based on whether "the emissions increase … would cause … air quality impacts less than [the PM2.5 SILs]." See new 40 CFR 51.166(k)(2) and 52.21(k)(2). We believe that it would be more effective to rely on interim policy and guidance as appropriate to help determine the best methods available to make the required assessment of source impacts on ambient PM2.5 resulting from any emissions."* *No change to the rule is proposed in response to this comment.*
43. Baseline concentration definition	The clarification to the definition of "baseline concentration" is consistent with EPA's definition and the definition in section 169 of the Act. When submitting this regulation as a SIP revision, *Oregon* must demonstrate that the regulation is consistent with previous interpretations so it cannot be construed to be a relaxation. The old language could be interpreted to mean that all emission increases from new sources and modifications occurring after January 6, 1975 but before January 1, 1978 consume increment, while the new language could be interpreted to mean that only emission increases from major new sources and major modifications consume increment. (7) *Response:* *The proposed rule language for the definition of "baseline concentration" states: "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;" *The word "major" was added to this definition in division 225 to make it consistent with the definition in division 202. Upon further consideration, DEQ has concluded that "major" should not be added to source and modification in the definition of baseline concentration. When an air quality impact analysis is required under division 225, all permitted sources, not just "major" sources, are included in the modeling analysis, not in the baseline calculation (or background concentration). DEQ will change the proposed definition of baseline concentration in division 202 to be consistent with the definition in division 225.*
44. AQRV analysis guidance	A key impact of the regulation of $PM_{2.5}$ will be the increased need to evaluate AQRVs. Therefore, as part of this GHG/$PM_{2.5}$ rulemaking, we encourage the Department to update the date reference for the definition of "FLAG" in OAR 340-225-0020(6) to reference the new version published in the October 27, 2010 Federal Register. 75 Fed. Reg. 66125 (Oct. 27, 2010). (1, 2, 4, 11, 13, 14, 17) *Response:* *The change was made to the proposed rule as suggested.*
45. $PM_{2.5}$ precursor offsetting	We urge the Department to clarify what is required under its rules in terms of $PM_{2.5}$ precursor offsetting. It very difficult to understand what is required in terms of precursor offsetting and what is allowed/required in the event of inter-pollutant trading. (1, 2, 4, 11, 13, 14, 15, 17) *Response:* *The proposed rule has been clarified as suggested. EPA has determined that the relative efficacy of emissions reductions varies across pollutants and that a ton of direct PM2.5 is generally more effective than a ton of precursor emissions in reducing overall PM2.5 concentrations. Therefore, the EPA preferred trading ratios for $PM_{2.5}$ and its precursors (NO_x and SO_2) are included in the proposed rules.*
46. Small-scale local energy projects	Even with the conditions provided in this paragraph, it may be too broad an assertion to state that a small-scale local energy project and associated infrastructure provides a net air quality benefit without conducting air quality dispersion modeling to confirm this. We are not aware of similar provisions in the SIPs of other states. Therefore, before Region 10 can consider this for inclusion in the Oregon SIP, we will need to consult with EPA Headquarters and other Regions. (7) *Response:* *The proposed rules change how small scale local energy projects are evaluated under Oregon's rules based on recent changes to Oregon's statutes resulting from House Bill 2952. EPA requires states to have minor source construction approval programs, in addition to the major source program described above, but gives states flexibility in how to do this. Oregon's existing minor source construction approval program in effect applies major source NSR/PSD requirements to any source with emissions over the Significant Emission Rate. This is above and beyond what is required by the federal rules. HB 2952 revised how minor source construction approval works for small scale local energy projects in Oregon providing DEQ with greater flexibility on how to implement the program. The changes in the proposed rule still meet EPA's general requirement to have a construction*

	approval program for minor sources and is still protective of the environment. No change to the rule is proposed in response to this comment.
47. Proposed option 1	Option 1 fails to link PSELs to the baseline concentration in the air shed and therefore will not meet the PSEL program's goal of ensuring compliance with NAAQS and PSD increment. DEQ provides little guidance on how the "fraction" will be established. There is no indication that DEQ will require further testing of the source to ensure that the fraction remains the same, potentially allowing massive increases in $PM_{2.5}$ emissions and the resulting specific health effects. (12) *Response:* *DEQ is proposing to implement a variation of Option 1. The netting basis and PSEL for $PM_{2.5}$ will be the fraction of the PM_{10} netting basis and PSEL. Since there is so much overlap between these two pollutants, this ensures that the introduction of the new pollutant ($PM_{2.5}$) doesn't trigger any new requirements if a plant is not making any modifications or production increases. The GHG baseline will be set based on the highest actual emissions in a 12-consecutive month period during the years 2000-2010.* *DEQ does not agree that the PSEL program will not ensure compliance with the NAAQS or the PSD increment. See the response in comment 13* "Baseline period tied to baseline concentration year." *See the responses in comments 54 and 55 regarding "Compliance with the NAAQS" and "Compliance with the PSD increment."* *DEQ will be providing guidance to permit writers on how the $PM_{2.5}$ fraction of PM_{10} will normally be established. Source test data at the facility is the most reliable way to determine the $PM_{2.5}$ fraction of PM_{10} emissions. The guidance will also include information on the cases when source tests will normally be required, along with the frequency to verify the $PM_{2.5}$ fraction. Smaller sources of $PM_{2.5}$ (less than 5 tons/year for each piece of equipment) will not normally be required to test because of the lower amount of emissions and limited resources. In this case, industry specific data available from trade associations or EPA's* ***AP-42,*** **Compilation of Air Pollutant Emission Factors**, *will normally be used to estimate $PM_{2.5}$ emissions. AP-42 has been published since 1972 as the primary compilation of EPA's emission factor information. It contains emission factors and process information for more than 200 air pollution source categories. A source category is a specific industry sector or group of similar emitting sources. The emission factors have been developed and compiled from source test data, material balance studies, and engineering estimates.* *The $PM_{2.5}$ fraction of PM_{10} depends on the type of source. For natural gas combustion, 100% of PM_{10} is $PM_{2.5}$. If data is not available on the $PM_{2.5}$ fraction of PM_{10} and sources do not want to incur the expense of source testing, the most conservative estimate is to assume PM_{10}, or even PM, is all $PM_{2.5}$. This approach will be easiest for sources but will also cause increases at the source to trigger NSR/PSD earlier since the significant emission rate for $PM_{2.5}$ is 10 tons/year (PM_{10} SER = 15 tons/year and PM SER = 25 tons/year). Once the source chooses to assume $PM_{2.5} = PM_{10}$, that choice cannot be changed in the future, even if more accurate data is available. No change to the rule is proposed in response to this comment.*
48. Proposed option 2	Option 2 would subject facilities to PSD for any increase over current PSEL and could lead to massive increases in *actual* pollution. By setting PSELs at PTE for ALL sources

	constructed after 1978, Option 2 would allow massive increases in actual emissions in the air shed and allow for violation of the NAAQS or PSD increment with impunity. Even more so than Option 1, Option 2 would wholly disconnect the PSEL program from the programs it is supposed to support, making the PSEL nothing more than a bureaucratic and accounting exercise in futility. (12) *Response:* *The commenter is correct in stating that Option 2 would disconnect greenhouse gas emissions from actual emissions today. DEQ is not recommending Option 2 for adoption. Changes have been made to the proposed rules to incorporate a modified version of Option 1 (see the response in comment 48 "Proposed Option 1").*
49. Proposed option 3	Option 3 is better because it ties the baseline period to when DEQ actually has monitoring data, ensuring that the PSEL program actually meets its goal of ensuring compliance with the NAAQS and PSD increment. If adopted, DEQ should outline very specific requirements for when DEQ will diverge from the baseline period for setting baseline emission rates. (12) *Response:* *DEQ is not recommending Option 3 for adoption because it would create a different baseline for $PM_{2.5}$ and PM_{10}. Since the two pollutants are so closely related, adoption of this option would create significant implementation issues. In addition, DEQ does not believe it is necessary to align the baseline year with the baseline concentration year to ensure compliance with the increment. See the responses in comment 54 "Compliance with the NAAQS" and comment 55 "Compliance with the PSD increment." Changes have been made to the proposed rules to incorporate a modified version of Option 1 (see the response in comment 48 "Proposed Option 1").*
50. Proposed option 4	Option 4 is best. The PSEL program has failed to live up to what Oregonians expect and DEQ should move away from it. Option 4 is a good first step down that road. (12) *Response:* *After consulting with EPA about the strengths and weaknesses of the federal program and considering implementation issues, DEQ is not recommending adoption of Option 4 (see the response in comment 52 to "State NSR/PSD program vs. federal program). Changes have been made to the proposed rules to incorporate a modified version of Option 1 (see the response in comment 48 "Proposed Option 1").*
51. State NSR/PSD program vs. federal program	In the $PM_{2.5}$/GHG regulatory proposal, the Department has indicated that it is considering adopting the federal PSD rules for greenhouse gases rather than keeping GHG regulation consistent with the regulation of other regulated air pollutants. We believe that this would be bad for Oregon and therefore encourage the Department to adopt regulations that treat GHGs consistent with how other regulated air pollutants are treated for the following reasons: • The Oregon program has always had incentives under the PSEL program to reduce emissions and to operate equipment in as low-emitting a manner as possible. This excludes changes from PSD when these changed can be accommodated under the PSEL. • The Oregon program provides flexibility to expand production operations. • The Oregon program provides simplicity in determining NSR/PSD applicability, unlike

the federal program where sources must rely on consultants to assist with their applicability determinations due to the complexity of the rules. This will be especially important if the rules affect smaller businesses in the future. (1, 2, 3, 4, 9, 11, 13, 14, 15, 16, 17, 18, 19, 23)

The commenters would prefer the adoption of the Federal Netting Method for GHG emissions because it does not place the facility at a competitve disadvantage when compared to other plants in other parts of the country. Any amendments to the DEQ program should bring the DEQ program closer to EPA's Regulations. (6, 10, 12)

Response:
The commenters provide differing views on whether to use the Oregon or federal netting approach for GHG.

<u>Basic DEQ and EPA NSR/PSD Program Differences</u>
DEQ's NSR/PSD rules differ from EPA's regulations in a number of fundamental ways.

- *The DEQ program has lower major source thresholds, so smaller new sources and changes to smaller existing sources are subject to review.*
- *The DEQ program utilizes a plant-wide cap approach to defining major modification rather than a contemporaneous net emissions increase approach as does EPA's rules. The effect of this plant-wide cap approach is that some changes which would be subject to review under EPA's rules are not subject under DEQ's rules and vice versa.*
- *DEQ accumulates all emissions increases and decreases from physical changes or changes in the method of operation since the baseline year or last major source permit, whichever is more recent, rather than just during a "contemporaneous" time period. This aspect of DEQ's program creates an incentive for sources to voluntarily reduce emissions in order to avoid triggering NSR/PSD.*
- *The PSEL rules have provisions that require the PSEL and netting basis to be reduced if emission reductions at the sources occur and make the caps excessively high.*
- *The PSEL also eliminates the possibility of a gradual increase of emissions over time by piecemeal projects not triggering NSR/PSD. Under the federal rules, an increase or decrease in actual emissions is contemporaneous.*
- *Changes which would result in increased emissions, but would not be considered modifications under EPA's rules, are reviewed for compliance with standards and increments under DEQ's PSEL program.*

EPA evaluated and initially approved the DEQ NSR program in 1982 as being equivalent or more stringent than EPA's regulations on a program basis and more recently in 2003.

<u>Continued Implementation of Oregon NSR/PSD Program</u>
After carefully considering all comments, DEQ has decided to recommend using the Oregon NSR/PSD program for both $PM_{2.5}$ and greenhouse gases. Based on conversations with EPA Region 10, there are definite advantages of the Oregon program over the federal program, including simplicity in determining applicability of the program as noted by some commenters. The following list contains elements of the federal NSR/PSD program that make it potentially less stringent and more complicated than Oregon's program:

- *The ability to subtract from projected future actual emissions any increase due to demand growth*
- *The ability to subtract from projected future actual emissions anything a source was capable of accommodating before the change that is unrelated to the change*

	• *The ability to disaggregate changes at a facility that are involved in a project* • *The question of whether emissions increases from debottlenecking should be included in the modification* • *The fact that fugitive emissions are not included in emissions increase for all source categories* • *Potential exemptions for routine repair and replacement* • *The ability to pursue the netting credits approach, which involves a 5-year contemporaneous period that is plant wide* • *The ability to pick different baseline years for each pollutant involved in a change.* • *The unenforceability of the projected actual emissions in the test of whether a major modification has occurred* *In an area where the Oregon program may seem less stringent than the federal program, setting actual emissions at a source's potential to emit, DEQ is proposing a change to the existing rules. See the response in comment 18 "major modification definition."* *Oregon's NSR/PSD program was used as one of the models to support the development of the Plantwide Applicability Limit option in the federal NSR/PSD rules. DEQ feels that the benefits of Oregon's NSR/PSD program far outweigh any advantages of the federal program. Changes will be made to incorporate greenhouse gases into Oregon's NSR/PSD program.*
52. Guidance on Federal PSD Program	Oregon's PSEL program, like other DEQ innovative programs, is unique under the Clean Air Act. While this may be a source of pride for DEQ, it makes implementing the program difficult because, when faced by difficult questions about the program and how it operates, DEQ consistently makes ad hoc or irrational decisions without fully anticipating all of the potential consequences. Comparatively, the federal program is implemented by most other states and by EPA and therefore has a wealth of interpretive guidance on the implementation of the program. Implementation of the federal program would therefore save DEQ time and money and would reduce the number of ad hoc decisions DEQ has to make and revise. (12) *Response:* *As stated in response to comment 52 to "State NSR/PSD program vs. federal program" above, DEQ is proposing to continue to use the Oregon approach to netting in the NSR/PSD program for $PM_{2.5}$ and greenhouse gases. Even though there is guidance on implementation of many aspects of the federal program, the program has similar complexity to the Oregon program and requires similar time and resources to implement. While implementation issues in the Oregon program often arise with regard to specific permitting actions, DEQ does not make ad hoc decisions regarding permitting issues. Decisions are made based on a legal review of the rules, DEQ guidance and past practices. No change to the rule is proposed in response to this comment.*
53. Compliance with the NAAQS	The PSEL program is intended to ensure compliance with the NAAQS and PSD increment. Both of these programs are based on actual emissions within the air shed. The only way that the PSEL can actually ensure compliance with these programs is if the baseline emission rates are set based on actual monitoring data from the baseline period. DEQ's proposed options 1 and 2 do not connect the baseline emissions rate to the baseline period and these proposed options would therefore not ensure compliance with the NAAQS or PSD increment. (12) *Response:*

	*The PSEL program provides the **basis** for assuring compliance with emission standards, and the NSR/PSD program ensures that major new and modified sources do not cause violations of ambient standards and PSD increments. However, the PSEL is only one element of an overall regulatory system that ensures compliance with the NAAQS.* *The CAA requires all areas of the country to meet or strive to comply with the National Ambient Air Quality Standards set by EPA. The Clean Air Act established two types of NAAQS. Primary standards set limits to protect public health, including the health of "sensitive" populations such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against visibility impairment, damage to animals, crops, vegetation, and buildings. State and local governments **monitor** the ambient air to determine whether the levels of pollution comply with the NAAQS. A region that does not meet the standard is considered a nonattainment area. Once the EPA designates nonattainment areas, the state works with businesses, local governments, and the public to reduce the emissions from sources contributing to the nonattainment status of the area.* *One of the key programs designed to help achieve compliance with the NAAQS is the New Source Review (NSR) program, a preconstruction review process for new and modified stationary sources. The NSR program has two parts: the Prevention of Significant Deterioration (PSD) program for attainment or "clean" areas typically requires new or modified sources to install state-of-the-art pollution controls to ensure that the ambient air quality will not degrade. The non-attainment area NSR program is designed to ensure that any new industrial growth in a non-attainment area will comply with stringent emission limitations (by requiring the most protective pollution controls and emission offsets), with the goal of improving air quality overall to meet the NAAQS. The NSR program requires companies to obtain permits for new construction or major modifications that substantially increase a facility's emissions.* *However, regulating major new and modified sources is not sufficient to ensure compliance with the NAAQS. States must submit a plan to EPA detailing steps necessary to achieve and maintain the NAAQS. This plan is referred to as the State Implementation Plan or SIP. SIPs must include an inventory of emissions, enforceable emission limitations, related control measures, and schedules and time-tables for compliance that are necessary for the area to meet the Clean Air Act standards and opportunities for public input. Air monitoring is conducted to measure whether standards are being met.* *If a state has nonattainment areas within its borders, the state must develop and submit an attainment plan to EPA detailing steps necessary to achieve the standard. Generally, the attainment plan includes modeling to demonstrate that the measures selected by the state will reduce emissions enough for the area to meet the standard. In addition, the Clean Air Act requires major sources of air pollution to meet stricter emission control requirements in nonattainment areas than are required in areas that meet federal health standards. For example, new sources of air pollution in nonattainment areas must meet stricter permitting requirements.* *States may ask EPA to redesignate an area back into attainment if:* • *the area has monitored attainment of the air quality standard;* • *EPA has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions;* • *the state has submitted, and EPA has approved, a maintenance plan for the area; and,*

	• *the area has met all other applicable Clean Air Act requirements.* *Nonattainment areas that later are designated to attainment are considered maintenance areas. The steps to maintain air quality are defined in a maintenance plan. Unless demonstrated to be no longer necessary, the control measures used to improve air quality will remain in place and additional measures could be needed. The maintenance plan must demonstrate continued compliance, considering projected growth, for a period of ten years. If outdoor air monitors record a violation of the standard, the maintenance plan includes a commitment to determine appropriate measures to address the cause of the violation.* *Oregon hasn't always met the National Ambient Air Quality Standards and initially had several communities designated by the EPA as non-attainment areas for ozone, carbon monoxide and particulate. DEQ developed attainment plans for these areas which included more stringent controls, such as limits on emissions of solvents and particulate matter limits on wood particle dryers and hardboard press vents. The more stringent controls on industrial emissions resulted in reductions to the PSEL and netting basis. In this sense, the PSELs help achieve compliance with the NAAQS even though they are not used to demonstrate compliance with the NAAQS. With these and other control strategies, all of the nonattainment areas under DEQ's jurisdiction were redesignated as maintenance areas in the 1990s and have remained in compliance ever since.* *The PM_{10} control strategies in the maintenance plans were so effective that when EPA developed the first $PM_{2.5}$ ambient air quality standards, there were no $PM_{2.5}$ nonattainment areas in the state. Only later when EPA reduced the $PM_{2.5}$ NAAQS, two areas in the state were designated as nonattainment areas. An additional area in the state is violating the standard based on recent monitoring data, but it has not officially been designated as a nonattainment area yet.* *Based on the fact that the only NAAQS violations in the state are for a pollutant for which EPA recently lowered the NAAQS, DEQ's air quality program has been very successful in protecting air quality in the state. No change to the rule is proposed in response to this comment.*
54. Compliance with the PSD increment	DEQ's implementation of the PSELs fails to ensure compliance with the NAAQS and PSD increment (12) *Response:* *The PSEL program provides the **basis** for assuring compliance with ambient standards and PSD increments but is not the actual method used to evaluate increment consumption.* *A PSD increment is the maximum concentration increase that is allowed to occur above a baseline concentration for a specific pollutant in permitting a new or modified source. The baseline concentration is defined for each pollutant and, in general, is equal to the ambient concentration existing during the baseline concentration year. PSD increments prevent the air quality in clean areas from deteriorating to the level set by the NAAQS. Significant deterioration is said to occur when the amount of new pollution would exceed the applicable PSD increment. It is important to note, however, that the air quality cannot deteriorate beyond the applicable NAAQS level, even if not all of the PSD increment is consumed.* ***General Approach to Increment Analyses***

The EPA and the States have generally used an emissions inventory and modeling approach to identify the degree to which an increment has been consumed or will be consumed by major source construction. Ambient monitoring has not been used to establish baseline concentrations or to evaluate increment consumption because ambient measurements reflect emissions from all sources, including those that should be excluded from the measurements.

EPA has not necessarily required the identification of a specific baseline concentration but rather has focused on measuring the change in concentration from the legally established baseline date to the time of the analysis. For example, in the preamble to the 1978 PSD regulation, EPA stated the following:

> *The regulations promulgated today no longer suggest that the baseline concentration be formally established. The Administrator feels that increment consumption can be best tracked by tallying changes in emissions levels of sources contributing to the baseline concentration and increases in emissions due to new sources. Data to establish baseline air quality in an absolute sense would be needed only if increment consumption were to be tracked using ambient measurements. Thus, to implement the air quality increment approach, the reviewing authority needs to verify that all changes from baseline emissions rates (decreases or increases as appropriate) in conjunction with the increased emissions associated with approved new source construction will not violate an applicable increment * * *.*

Class I, II, and III Areas and Increment.
The PSD requirements provide for a system of area classifications which affords States an opportunity to establish air quality goals that are consistent with local land use goals. There are three area classifications. Each classification differs in terms of the amount of growth it will permit before significant air quality deterioration would be deemed to occur. Class I areas have the smallest increments and thus allow only a small degree of air quality deterioration. Class II areas can accommodate normal well-managed industrial growth. Class III areas have the largest increments and thereby provide for a larger amount of development than either Class I or Class II areas.

Increment Consumption and Expansion
The amount of PSD increment that has been consumed in a PSD area is determined from the emissions increases and decreases which have occurred from sources since the applicable baseline date. It is useful to note, however, that in order to determine the amount of PSD increment consumed (or the amount of available increment); no determination of the baseline concentration needs to be made. Instead, increment consumption calculations must reflect only the ambient pollutant concentration change attributable to increment-affecting emissions.

Emissions increases that consume a portion of the applicable increment are, in general, all those not accounted for in the baseline concentration and specifically include actual emissions increases at any stationary source, area source, or mobile source occurring after the baseline concentration year. The amount of available increment may be added to, or "expanded," through the reduction of actual emissions from any source after the baseline concentration year.

Oregon's Approach to Increment Analyses
Sources that trigger Prevention of Significant Deterioration for $PM_{2.5}$ must model air quality

	impacts from emissions increases due to the project that are above emissions in 2007, the baseline concentration year, regardless of the year of their baseline emission period. This is also true for NO_x, since the baseline concentration year (1988) does not correspond to the baseline emission year (1977-1978). These modeled ambient concentrations will be compared to the maximum allowable increases (PSD increments) to identify the degree to which an increment has been consumed or will be consumed by major source construction. Because the baseline year for emissions different from the baseline concentration year, sources that trigger NSR/PSD must establish actual emissions in 2007 for modeling to show compliance with the PSD increment. This is also done for competing source modeling because a source's individual impact is significant. Therefore, it is not imperative that the baseline emissions year be the same as the baseline concentration year, because modeled emissions are always actual emissions in the baseline concentration year. No change to the rule is proposed in response to this comment.
55. PSEL program fails to meet goals	The PSEL program has failed to meet DEQ's own goals as stated below: 1) assuring reasonable further progress towards attainment of ambient standards; 2) assuring compliance with ambient standards and PSD increments; 3) administering the emissions trading program; and 4) tracking PSD increment consumption. The PSEL program is only concerned with a specific source's "allowable" emissions, while both the NAAQS and PSD increments are tied directly to "actual" emissions because they are concerned with "actual" concentrations of pollutants in the air shed. From the start, then, the administration of the PSEL program is disconnected with goals it is intended to achieve. For instance, a facility that only runs two 8-hour shifts, but has the *potential* to run three 8-hour shifts, even the source never has and never intends to, could increase actual emissions from their two shifts by 50%, which would be up to their "allowable emissions," without triggering the PSD program under Oregon's current rules. Conversely, assuming this increase in actual emissions was over the significant emission rate, the federal program would be triggered and the source would be required to meet the requirements of the PSD program. This highlights how the Oregon PSEL program is inconsistent with the federal program. (12) *Response:* *The PSEL program has not failed to meet DEQ's goals. See the responses in comment 54 "Compliance with the NAAQS," comment 55 "Compliance with the PSD increment" and comment 24 "Netting basis definition allows thirty-year "lookback" period".* *Regarding the example mentioned above, if a source was only operating two shifts during the baseline period, the baseline emission would be established on two shifts. Subsequently, if the source wanted to increase to three shifts, they would have to request an increase in their PSEL. If that increase was more than the SER, it would require an air quality impact analysis under the PSEL rule (OAR 340-222-0041). The source would be required to prove that the increase in emissions would not violate any air quality standards and if it did, the increase would not be allowed. The increase would not be subject to PSD because there is no physical modification; the source is merely using existing capacity. Under the federal program, this type of change in operation would also not be subject to PSD because there is no physical change. The federal program would not even require an air quality impact analysis for the actual increase in emissions. In this regard, Oregon's PSEL program goes*

	beyond the federal program in protecting the environment. No change to the rule is proposed in response to this comment.
56. Continued operation of high-emitting, old sources	The PSEL program encourages the continued operation of old, dirty sources when they would otherwise be replaced with new, cleaner sources. The current PSEL program places too much concern on "creep" instead of focusing on the larger problem of "slippage" with old, dirty sources in the region. Slippage is where a source has slowly deteriorated to the point where it can no longer function at what was its original design capacity. Old sources whose retrofits would trigger the federal PSD program, instead simply have their life extended and keep polluting indefinitely because the PSEL program lets these inefficient sources run forever, so long as their allowable emissions do not increase. By allowing these older, inefficient, and dirty sources to operate, in essence, indefinitely, the PSEL program undermines incentives that the facility has to replace older sources with newer, cleaner, more efficient sources. DEQ has indicated that their main concern is not with slippage, but is instead with "creep" which is overblown. Creep is the process by which a source could systematically increase their potential emissions without triggering the federal PSD program. Under the federal program, only emission increases within ten years are considered. A source could then increase emissions, so long as the increase is below the significant emission rate, every ten years without triggering the federal PSD program. The PSEL program also subsidizes current facilities to the detriment of facilities that may want to move into Oregon. Because the PSEL program allows current facilities to operate almost indefinitely without meeting the strictest requirements of the Clean Air Act, these facilities have a competitive advantage over any facilities that wish to be located in Oregon in the same industry that would have to meet these, sometimes costly, requirements. In this light, the PSEL program can be seen, not only as undermining the goals of the Clean Air Act, but also stifling business opportunities in Oregon. (12) *Response:* *DEQ believes that "slippage" is as likely or more likely to occur under the federal program than under Oregon's approach to netting. Under the federal program, sources can avoid triggering NSR/PSD by delaying emission reductions until just before an increase is needed. In the scenario described in the comment, a high-polluting older source would likely be closed at the same time that its replacement is permitted so that the reduction from closing the older source could be used to net the replacement out of NSR. For example, a high emitting boiler could be closed in a netting action to permit a lower-emitting new boiler without triggering NSR/PSD. The same outcome could be achieved under the Oregon program, but the source would be able to voluntarily reduce the emissions from the older source earlier without losing the ability to use the reduction in netting.* *Under either the federal or Oregon approach to netting, NSR/PSD is only triggered if a physical change or change in the method of operation results in a net significant emission rate increase. If a source is modified because its capacity has slowly deteriorated over time, but the modification does not increase emissions by more than a significant emission rate above the netting basis, it would not trigger NSR/PSD. Depending on whether the source has increased or decreased emissions since the baseline period, the netting basis under the Oregon program could be higher or lower than under the federal program. No change to*

	the rule is proposed in response to this comment.
57. PSELs are unenforceable	We are worried about the unenforceable nature of the PSELs. As applied to $PM_{2.5}$, the unenforceable nature of these regulations is highlighted by DEQ's attempt to estimate the level of $PM_{2.5}$ at sources in relation to the source's PM10 levels. However, without adequate monitoring and reporting requirements, sources are able to avoid the permitting requirements needed to protect the health of Oregon residents from the specific harms caused by $PM_{2.5}$. (12) *Response:* *Once established, compliance with the PM2.5 PSEL will be determined by a compliance method involving monitoring of emissions, production or other parameters. Like other PSELs, the $PM_{2.5}$ PSELs will meet EPA's requirements for practical enforceability because the limits are set on a rolling 12-month period and the compliance determination is done every month. Even though the PSEL is an annual limit, the monitoring is monthly and in many cases hourly when CEMS are available. If a source violates the PSEL, DEQ is able to take direct enforcement action against the source. No change to the rule is proposed in response to this comment.*
58. Minimum requirements and program stringency	The proposed amendments go beyond what is required to "update state regulations for fine particulate pollution and greenhouse gases in order to align them with new federal regulations" and will affect the stringency of the program. Allowing this to continue increases the costs and complexity of the program, without any defined benefits. (10) *Response:* *The proposed regulations are necessary to update state regulations for fine particulate pollution and greenhouse gases. The area where the rules are being tightened is in resetting PTE to actual emissions for sources that were permitted but not operating in the baseline period and for sources that will go through NSR/PSD in the future. This change is proposed to better align this aspect of Oregon's program with the federal program. See the response in comment 3 "Actual emissions as PTE used to net out of PSD." No change to the rule is proposed in response to this comment.*
59. Regulation of greenhouse gases	The designation on Greenhouse Gases and Global Warming is based on flawed scientific research and conclusions. This legislation and/or rulemaking will do nothing but to significantly raise costs to business and thereby to the consumer, and create more bureaucracy and inefficiency with the DEQ, all because of fear and false research. I call upon the DEQ to cease all further efforts supporting and establishing Greenhouse Gas and Global Warming regulation, rulings and enforcement. (22) In the age of problems I would say this is a real lot of government contrived silliness. (21) *Response:* *Based on the best peer-reviewed science, EPA found in 2009 that manmade greenhouse gas emissions threaten the health and welfare of the American people. EPA is not alone in reaching that conclusion. The National Academy of Sciences has stated that there is a strong, credible body of evidence, based on multiple lines of research, documenting that the climate is changing and that the changes are caused in large part by human activities. Eighteen of America's leading scientific societies have written that multiple lines of*

	evidence show humans are changing the climate, that contrary assertions are inconsistent with an objective assessment of the vast body of peer-reviewed science, and that ongoing climate change will have broad impacts on society, including the global economy and the environment. *Oregon cannot disregard the strong scientific evidence showing that humans are contributing to the rapid increase of global temperatures. In addition, although new reporting and permitting requirements and fees create costs to businesses, the effects of climate change have serious implications for the economy and environment. For example, Oregon snow packs are shrinking and unseasonably warm temperatures are leading to rapid spring melts depleting Oregon's supply of summer water for agriculture.* *However, even if greenhouse gas emissions did not contribute to global warming, DEQ would still be required by federal law to establish a GHG permitting program. Under the federal Clean Air Act, no major new or modified source of GHG may be constructed in the United States without a PSD permit. If DEQ does not establish a GHG permitting program, these sources could not be built in Oregon, which would cause a severe economic impact on the state. No change to the rule is proposed in response to this comment.*
60. Greenhouse gas reporting and fees	Currently forest products company owners that own manufacturing or conversion facilities along with timberland and forestland that sequesters CO_2 gases and emissions are being held to an increasing pile of fees (i.e., annual GHG reporting fees and related annual paperwork). The adoption of an ODEQ policy and regulation that places the GHG manufacturing emissions in Title V and ACDP permits as part of PSEL is headed to a place that can be summed up as "taxation and regulation without representation". (8) The DEQ's reporting threshold for greenhouse gases should be increased to match the EPA's threshold. There is no reasonable explanation for the DEQ to continue to diverge from the EPA. Allowing this to continue increases the cost and complexity of the program, without any defined benefits. (10) *Response:* *This rulemaking does not address greenhouse gas reporting. However, in earlier rulemakings, the EQC adopted a greenhouse gas reporting requirement that is more comprehensive than the federal requirement. DEQ proposed and EQC adopted an emissions threshold of 2,500 metric tons carbon dioxide equivalent in Oregon's greenhouse gas reporting rules, as compared to 25,000 metric tons for the federal reporting program. The lower reporting threshold will allow Oregon to develop a better scientific basis for tracking and addressing greenhouse gas emissions. Because this rulemaking does not address greenhouse gas reporting, no change to the rule is proposed in response to this comment.*
61. $PM_{2.5}$ to PM_{10} ratio	Establishing a ratio between PM2.5 and PM10 emissions should not be done through testing only. Sources should have the option of using the ratio based upon the Particle Size Category by AP-42 section. If a modeling analysis is required for an area, having PM2.5 default to PM10 will result in compounding conservative worst case conditions. (10) *Response:* *DEQ prefers source test data at the facility as the most reliable way to determine the $PM_{2.5}$ fraction of PM_{10} emissions. Where source testing is not required or possible, industry specific*

	data available from trade associations or EPA's ***AP-42,*** **Compilation of Air Pollutant Emission Factors**, *can be used to estimate $PM_{2.5}$ emissions. See the response in comment 48 "Proposed Option 1" for more information.* *DEQ agrees that modeling PM_{10} as a surrogate for $PM_{2.5}$ is a conservative approach in most cases. Since $PM_{2.5}$ emissions must include secondary formation, $PM_{2.5}$ modeled impacts could actually be greater than PM_{10} modeled impacts. However, some sources may choose to use this conservative approach to avoid the cost of testing to differentiate between $PM_{2.5}$ and PM_{10}. No change to the rule is proposed in response to this comment.*
62. Total particulate matter instead of $PM_{2.5}$	Instead of trying to enforce new lower standards for the most difficult, expensive and inaccurate testing of PM2.5, DEQ should be looking at standards for total particulate matter based on testing with an allowance for use of existing tables of site developed ratios to establish particle size gradation. They should also recognize that geography plays a large role in air pollution problems and efforts should be made to reduce pollution at those specific times when the air shed becomes stagnant. (10) *Response:* *Since EPA adopted national ambient air quality standards for $PM_{2.5}$, DEQ does not have a choice on whether to implement a permitting program for $PM_{2.5}$. If DEQ does not adopt these rules, Oregon will lose federal approval to implement the program and could face sanctions. EPA has developed tables with particle size gradation for some but not all sources. Geography is taken into account in developing air quality attainment plans for areas that violate NAAQS.* *DEQ calls periodic air pollution advisories during the winter due to stagnant air. During these times, pollutants trapped near the surface can steadily increase in concentration toward unhealthful levels due to inadequate air mixing. These pollutants are mainly generated from wood smoke from residential heating, open burning, industry and other sources. People in affected counties are asked to curtail or limit open burning and the use of uncertified woodstoves. DEQ urges people who have alternative heating options not to burn in woodstoves or fireplaces. People are also asked to limit driving and vehicle idling and businesses are asked to allow employees to telecommute. During an air quality emergency, industries could also be required to curtail operations. No change to the rule is proposed in response to this comment.*
63. $PM_{2.5}$ source test method	Another issue that I am quite concerned about is assuming that PM_{10} emissions are $PM_{2.5}$ emissions and vice versa. With respect to the issue of $PM_{2.5}$, it appears that permanent rule making is under way and definite without allowing source test methods to develop so that industry sources can quantify existing $PM_{2.5}$ emissions from sources at their respective facilities. This is a potentially catastrophic mistake, and to date, no acceptable test method exists that allows a wood products source that is saturated to test and measure $PM_{2.5}$ emissions from a wet scrubber or wet-ESP control device that is currently controlling emissions from their manufacturing facility. How can we regulate effectively without effective means and technology to measure $PM_{2.5}$ emissions from wood products sources? (8) *Response:* *Sources will be required to estimate $PM_{2.5}$ emissions in their permit renewal or modification*

	applications. They will be required to use the best information available to make this estimate. For natural gas combustion, 100% of the PM_{10} will be $PM_{2.5}$. In other cases, a fraction of the PM_{10} will be $PM_{2.5}$ and it will be the responsibility of the source to determine this fraction, either from source test data or literature data of similar sources. See the response in comment 48 "Proposed Option 1" for additional information. *On December 1, 2010, EPA revised two test methods for measuring particulate matter emissions from stationary sources. One of the revised methods, called Method 201A, will provide the capability to measure the mass of filterable $PM_{2.5}$. The second revised method, called Method 202, will make a more accurate measurement of condensable particulate matter. Condensable particulate matter forms from condensing gases or vapors. It is a common component of both PM_{10} (particulate matter equal to or less than 10 micrometers in diameter) and $PM_{2.5}$. The revised EPA methods have replaced Other Test Methods 27 and 28 and will be added to the definitions of PM_{10} and $PM_{2.5}$.* *DEQ recognizes that EPA Method 201A cannot be used in a saturated gas stream. DEQ will continue to work with EPA and other interested parties on finding a better method to test this type of source.*
64. Litigation opt-out	We recommend that the Department include within its rules a provision stating that if the federal GHG PSD rules are vacated or stayed by the courts or Congress, then the Oregon rules will cease to be in effect. (1, 2, 4, 11, 3, 14, 15, 17) *Response:* *At this time, the outcome of any lawsuits regarding greenhouse gases is unknown. DEQ does not know if greenhouse gas permitting rules will be vacated or modified. Until the time EPA changes the federal rules, DEQ is required to implement greenhouse gas rules in order to receive approval of the State Implementation Plan and ensure withdrawal of the Federal Implementation Plan. If federal rules change, EQC can consider revising Oregon's rules at that time either through a temporary or regular rulemaking. No change to the rule is proposed in response to this comment.*

List of people submitting comments (by commenter number)			
Number	Name	Organization	Receive date
1	John Ledger	AOI	11/24/10
2	Lee Weber	ATI Wah Chang/ ATI Albany Operations	11/24/10
3	Russell Strader	Boise Cascade, LLC	11/24/10
4	Russell Burns	Boise Paper	11/24/10
5	Lee Fortier	Dry Creek Landfill	11/24/10
6	Alicia Little	Dyno Nobel Inc.	11/24/10
7	Scott Hedges	Environmental Protection Agency, Region 10	11/24/10
8	James DeHoog	Environmental Technical Services	11/24/10
9	Scott Stewart	Intel	11/24/10
10	Thomas Gruszczenski	Knife River Materials	11/24/10
11	Mari Chesser	Microchip Technology Inc.	11/24/10
12	John Krallman, Kenny Key	Northwest Environmental Defense Fund	11/24/10

13	Kathryn VanNatta	Northwest Pulp and Paper Association	11/24/10
14	Holly Sears	Oregon Refuse & Recycling Association	11/24/10
15	Ray Hendricks	PGE	11/24/10
16	Lisa Becherer	Roseburg Forest Products	11/24/10
17	Scott Conant	SP Newsprint Co., LLC	11/24/10
18	Martha Moore	TW Environmental, Inc.	11/24/10
19	Dale Wonn	Weyerhaeuser NR Company	11/24/10
11	Mari Chesser	Microchip Technology Inc.	12/13/10
20	Thane Jennings	Hermiston Power, LLC, Calpine Corp.	12/17/10
2	Lee Weber	ATI Wah Chang/ ATI Albany Operations	12/22/10
6	Alicia Little	Dyno Nobel Inc.	12/22/10
10	Thomas Gruszczenski	Knife River Materials	12/23/10
21	Mitchel Karp	RSG Forest Products	12/30/10
22	Mitch Jorgensen	Molalla Redi-Mix & Rock Products, Inc.	12/30/10
1	John Ledger	AOI	01/14/11
3	Russell Strader	Boise Cascade, LLC	01/14/11
7	Scott Hedges	Environmental Protection Agency, Region 10	01/14/11
9	Scott Stewart	Intel	01/14/11
12	Aubrey Baldwin	Northwest Environmental Defense Fund	01/14/11
13	Kathryn VanNatta	Northwest Pulp and Paper Association	01/14/11
15	Ray Hendricks	PGE	01/14/11
23	Lincoln Cannon	Oregon Forest Industries Council	01/14/11

Attachment E
2011, EQC meeting
03

Commenter No. 1

Associated Oregon Industries

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November 24, 2010

BY EMAIL (AQFeb2011Rules@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 $PM_{2.5}$ and Greenhouse Gas 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 manufacturers to be affected by the proposed emergency rule and is the state affiliate of the National Manufactures Association.

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

Adoption of State v. Federal Program

There is no air program that affects more industrial sources in the state than the PSEL/new source review program. This lies at the heart of the Oregon air permitting scheme and the rules adopted as part of this rulemaking package will constitute the foundation of air permitting for years to come.

AOI has always supported the Department adopting and implementing air permitting regulations as opposed to allowing federal implementation. Where rules different from the federal regulations made more sense for Oregon, we

have supported those rules. In the $PM_{2.5}$/GHG regulatory proposal, the Department has indicated that it is considering adopting the federal PSD rules (e.g., 40 CFR 52.21) for greenhouse gases rather than keeping GHG regulation consistent with the regulation of other regulated air pollutants. AOI believes that this would be bad for Oregon and therefore encourage the Department to adopt regulations that treat GHGs consistent with how other regulated air pollutants are treated.

One reason that AOI opposes the adoption of the federal PSD program for GHGs is that it would lead to considerable confusion for industrial sources and possibly DEQ's permit writers. The federal PSD applicability test is considerably different from that employed by the Department for other pollutants. In some ways, the federal applicability test is less stringent than DEQ's. For example, under the federal program PSD is only triggered at an existing source if that source is already a major source. As an example, for a source with 90,000 tons/year of GHG emissions, that source could make a modification that would double its GHG emissions without triggering PSD. This is because the definition of "major modification" in 40 CFR 52.21 only applies to major sources. Therefore, a change well in excess of the significant emission rate (SER) could take place and still not trigger PSD. That would not be allowed under the Oregon program. In addition, under the federal program, a source that was a major source could make multiple different physical changes that increased GHG emissions by as much as 74,000 tons/year, but so long as the changes were unrelated the source would never trigger PSD. Again, this does not occur under the Oregon program, as the Oregon program looks at the aggregate emissions, as defined by the PSEL, regardless of whether individual projects are unrelated. This difference in addressing projects under the Oregon and federal programs would lead to considerable confusion if PSD were triggered for criteria pollutants, but not triggered for GHGs. The PSEL program provides a clear, bright-line PSD applicability threshold. While it is more stringent than the federal program, AOI members still prefer its clarity and transparency to the far more complicated federal program.

Another reason that AOI opposes adoption of the federal program is that DEQ permitting staff are not trained in its intricate applicability considerations. As noted above, there are a broad variety of ways in which the federal PSD program differs from the Oregon program. As it is, there is a variety of understanding across permit writers of how the applicability process works. If Oregon were to adopt a new set of applicability thresholds that only applied to one pollutant (e.g., GHGs) and none other, it would be necessary to train all permit writers in the subtleties of the federal program. This would consume tremendous resources at a time that the Department is strapped for resources. Therefore, we believe that from an agency resource point of view it makes no sense to run two separate PSD programs.

AOI also opposes DEQ adopting the federal program for GHGs because of the penalties that it imposes on companies that choose to proactively reduce emissions. EPA has long acknowledged that its program disincents companies from making emission reductions early. Under the federal

PSD program, a company can only net against emission reductions that occurred in the five year period prior to submittal of its PSD application. Even more perversely, an emission increase that might have been netted out previously may end up not being netted out in the context of a later project. For example, if a company reduced GHGs by 140,000 tons in year one of the program and then added 76,000 tons of GHGs in year three, it would be able to net out of PSD because the 140,000 ton reduction would offset the 76,000 ton increase. However, if in year six the company made an 80,000 ton increase, it would have to consider the 76,000 ton increase along with the 80,000 ton increase and yet would get no credit for the 140,000 ton decrease. This means that companies subject to the federal program typically defer emission reduction projects so that they know that they are available to offset emission reductions. Under the Oregon program there is not this same disincentive to early reductions and, as a result, companies have consistently not tried to hold back projects that improve air quality. We believe that this is another strong reason to apply the Oregon PSD program to GHGs.

Consistent with AOI's strong preference to see the Oregon PSD program applied consistently across all regulated air pollutants, we make the following comments on the rules that were proposed based on this approach:

Baseline Emission Rate (OAR 340-200-0020(13))

One of the most significant aspects of the rule proposal is the establishment of the mechanism for calculating baseline emissions for GHGs and $PM_{2.5}$. Because of the differences between $PM_{2.5}$ and GHGs, we present our comments separately.

$PM_{2.5}$ Baseline Emission Rate (OAR 340-200-0020(13)(c))

AOI suggests that the Department revise its proposed regulations to allow dual options for how a source calculates its $PM_{2.5}$ baseline emission rate. As proposed, the rules would require that a source take the proportionate share of its existing PM_{10} netting basis for $PM_{2.5}$. If the source has no PM_{10} netting basis, then it may take the actual $PM_{2.5}$ emissions from the $PM_{2.5}$ baseline period. We generally support the proposed approach. However, we believe that a source should have the option of either taking the proportionate share of its PM_{10} netting basis or the actual $PM_{2.5}$ emissions from the baseline period. By mandating that a source with a PM_{10} netting basis must take its proportionate share, the Department is penalizing sources with a small PM_{10} netting basis. For example, a source whose PM_{10} emissions equal its $PM_{2.5}$ emissions that has a 20 ton PM_{10} netting basis and a 34 ton/year PM_{10} PSEL would find that it had to decrease its PM_{10} emissions by four tons/year or else face the arduous PSD permitting process. This is a serious penalty for that source and will likely result in it decreasing production (and employment) in Oregon at a time when the state can ill afford to lose employment. If that same source had been emitting 27 tons/year during the baseline period and it was allowed the option to set its baseline emission rate using the emissions during the baseline period, it would be able to retain its 34

ton/year $PM_{10}/PM_{2.5}$ PSEL. That said, we also believe it is critical that a source with an established PM_{10} netting basis be able to establish a $PM_{2.5}$ netting basis based on the proportionate share of PM_{10} emissions if it so chooses. Our comment is just that DEQ allow sources the ability to choose which methodology to apply, much as the federal program allows a source to choose which time period in the prior 10 years it wishes to use for its baseline period.

We believe that allowing the source to make a one-time decision as to whether to rely on actual $PM_{2.5}$ emissions during the baseline period or a proportionate share of the PM_{10} netting basis is particularly important to protecting small businesses. AOI has many small business members. These small businesses make up a critical component of Oregon's economy. These same small businesses often have small emissions. While this is generally good, the small business with a one or two-ton/yr PM_{10} netting basis, a 15 or 16 ton/yr PM_{10} PSEL, and has been operating at 13 to 14 ton/yr level, will suddenly find that it needs to reduce production/emissions by 20 to 25 percent to ensure that it can comply with a new $PM_{2.5}$ PSEL that is based on the netting basis plus 9 tons. This example assumes that PM_{10} equals $PM_{2.5}$, but this is often the case for small, well controlled sources and, furthermore, these small businesses will lack the resources to conduct testing to speciate $PM_{2.5}$. Therefore, by mandating proportionality except where a source has no PM_{10} netting basis, the Department could have a significant negative impact on Oregon business without a commensurate improvement in air quality.

For all these reasons, AOI believes that it is important that the Department allow sources to make a one-time declaration as to which way they will set their $PM_{2.5}$ baseline and leave the choice as to whether to use a proportional methodology or an actual emissions methodology to the source.

$PM_{2.5}$ Precursor Baseline (OAR 340-200-0020(13))

We believe that the rules need to be revised to add provisions for the establishment of $PM_{2.5}$ precursor baseline. Under the rules, DEQ is, for the first time, regulating SO_2 and NOx as $PM_{2.5}$ precursors. If a major source increases its NOx PSEL by 40 tons/year or more over the baseline emission rate, it triggers not only PSD NOx and ozone, but also for $PM_{2.5}$. In a $PM_{2.5}$ nonattainment area, this would trigger the very onerous requirement for offsets. However, as proposed, the baseline period used for NOx would be 1977/78 even though the $PM_{2.5}$ baseline period could be as recent as 2010. For a source that was constructed after 1978, the NOx baseline would be "0" tons/year, assuming that it never went through PSD. As a result, for a post-1978 source, a modification could trigger PSD for $PM_{2.5}$ for NOx (which has a 0 ton/year netting basis), but not trigger PSD for $PM_{2.5}$ itself, which might have a 2010 netting basis. This strange outcome makes no sense. For NOx as $PM_{2.5}$ precursor, the methodology should be the same as the methodology for $PM_{2.5}$. This is the same way in which the federal PSD program addresses baseline for NOx as an ozone precursor as opposed to NO_2 as a criteria pollutant. The baseline period for ozone precursors can and often is distinct from the baseline period used to evaluate NO_2, the criteria pollutant. Therefore, AOI strongly recommends that insofar as NOx

and SO_2 serve as $PM_{2.5}$ precursors, there should be a separate netting basis established that is consistent with the $PM_{2.5}$ netting basis procedures.

GHG Baseline (OAR 340-200-0020(13)(d))

AOI suggests that the Department revise its proposed regulations to allow dual options for how a source calculates its GHG baseline emission rate. As proposed, the rules would require that a source calculate its combustion GHG emissions based on the same production rate used to calculate the netting basis for other combustion pollutants. If the source has no netting basis for combustion related pollutants, then it may take the actual GHG emissions from the GHG baseline period. For GHG process emissions, DEQ proposes to similarly require sources that can correlate their GHG emissions to a production parameter to set their GHG baseline emission rate based on that production rate. If GHG emissions are not related to the production parameters used to set the netting basis for other pollutants, then the source must set its GHG baseline emission rate based on actual emissions during the baseline period.[1] We generally support the proposed approach. However, we believe that a source should have the option of either calculating baseline GHG emissions using production parameter or through the use of the actual GHG emissions from the baseline period. By mandating that a source must base GHG baseline emissions on the 1977/78 production parameters if it has a netting basis for other pollutants, the Department is penalizing sources with a small netting basis for combustion pollutants. For example, a natural gas fired boiler using low NOx burners with a three ton/year NOx netting basis would end up with only a 7,123 ton GHG netting basis.[2] If that source had been operating under a 39 ton/year NOx PSEL, then the source would have been emitting 92,000 tons/year of GHG (CO_2-e). If that source sought to increase its PSEL to the full 42 tons/year it is entitled to, it would trigger PSD as its ultimate emissions would be over 100,000 tons/year of GHGs (CO_2-e) and its PSEL would exceed the GHG baseline emission rate by more than 75,000 tons/year. However, if the source had been operating at or near its 39 ton/year NOx PSEL, the actual GHG emissions increase would be very small. A source such as the example source should be allowed to set its baseline emission rate using either the production rates used to establish the netting basis for other combustion pollutants or its actual emissions during the baseline period.

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[1] We note that for process emissions there is no option addressed for a source that has no netting basis for other pollutants. This seems to be a conceivable situation and so appears to be an oversight. By accepting AOI's comment, the Department will be able to address this oversight as such a source would default to using actual emissions during the baseline period.

[2] This example assumes the DEQ NOx emission factor for medium sized boilers with low NOx burners and the emission factors and global warming potentials established in EPA's reporting rule. A heating value of 1,015 Btus/cubic foot natural gas was also assumed.

AOI also recommends that the rules be revised to clarify that if a source has gone through PSD for one combustion pollutant, it can set its GHG netting basis based on the production rates used in that PSD analysis. The Department's proposed approach makes no allowance for sources that have gone through PSD for one, but not all, pollutants. This is not an unusual circumstance with sources often going through PSD, and therefore resetting the netting basis, for one combustion pollutant while all the rest of the combustion pollutants do not go through PSD and so do not have a reset netting basis. This circumstance should be addressed in the rules by allowing sources to use the production rate commensurate with the pollutants that went through PSD if that has occurred. Otherwise, the GHG emissions would be completely out of synch with the most recent comprehensive review.

AOI also requests that the rules be revised so that the GHG baseline is established as part of the first permitting action for which an application is submitted after March 1, 2011. By requiring sources that may be nearly complete with their permitting process to be the first ones to have to undergo the baseline establishment process, DEQ will contribute to the serious backlog in permit renewals. It is more prudent to require that new applications coming in after March 1, 2011 address GHG baseline than it is to require that existing and complete applications be revised and resubmitted.

Litigation Opt-Out

AOI recommends that the Department include within its rules a provision stating that if the federal GHG PSD rules are vacated or stayed by the courts or Congress, then the Oregon rules will cease to be in effect. Several years ago Oregon got out in front of EPA and adopted 112(g) regulations based on federal proposals and prior to EPA finalizing its program. EPA then did an about face and withdrew its 112(g) rule package and pursued a different way of regulating HAP sources. For several years, until DEQ could allocate the time and staff budget to remove these rules, Oregon limped along with a lame duck rule that depended on federal guidance that would never be developed as EPA was no longer supporting the program. The same thing could occur with GHGs and new source review. DEQ is depending on EPA developing GHG PSD guidance relating to BACT and to maintaining the Clearinghouse such that GHG BACT determinations can be developed. If the courts or Congress delay or stop implementation of the GHG PSD program, the Oregon program would be left without critical components, much as occurred with the 112(g) program. In order to avoid this outcome, DEQ can adopt regulations that specify that if EPA's GHG PSD program is delayed, vacated or withdrawn, the Oregon program will be similarly delayed. This would avoid Oregon businesses being left in the nonviable position of having to comply with GHG PSD while their out of state competitors did not.

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

Consistent with our comment above, the baseline period for $PM_{2.5}$ precursors should be consistent with the baseline period for $PM_{2.5}$. Otherwise, sources will be routinely forced into PSEL review, PSD or nonattainment NSR for $PM_{2.5}$ precursors even though $PM_{2.5}$ does not trigger the same review. This does not make sense and would have a negative impact on Oregon businesses without a material environmental benefit.

Definition of "Federal Major Source" (OAR 340-200-0020(54))

AOI is concerned that there are errors relating to the definition of "Federal Major Source" that would have profound impacts on the Oregon GHG PSD program. First, we note that the definition states that sources are Federal Major Sources for GHGs if they have the potential to emit more than 100,000 short tons of GHGs. This is not consistent with the federal rules in two key respects. First, the federal rules require that the 100,000 ton threshold apply on a CO_2e basis, a criterion that is not identified in the proposed rule making the Department's proposal far less stringent than the federal rules. Second, the Oregon rules fail to include the second criterion found in the federal program that the source also have the potential to emit 250 tons non-CO_2e of GHGs. In the preamble to the Tailoring Rule, EPA was quite clear about the dual nature of these two criteria, stating:

> "However, we further provide that in order for a source's GHG emissions to trigger PSD or title V requirements, the quantity of the GHGs must equal or exceed both the applicability thresholds established in this rulemaking on a CO2e basis and the statutory thresholds of 100 or 250 tpy on a mass basis." 75 Fed. Reg. 31513, 31518 (June 3, 2010)

We believe that both of these errors on DEQ's part were inadvertent given the repeated statements that DEQ wants to remain consistent with the requirements established in the Tailoring Rule. The definition of Federal Major Source should be revised to be clear that both criteria apply and that the 100,000 ton criterion is based on CO_2e.

Definition of "Greenhouse Gas" (OAR 340-200-0020(59))

AOI requests that DEQ revise the proposed definition of "greenhouse gas" to exclude CO_2 emissions from biomass effective upon the date that EPA authorizes the removal of biomass GHG emissions from PSD consideration. EPA has promised to finalize its decision in 2011 on whether biomass related CO_2 emissions must be counted in determining PSD applicability. If EPA concludes that the CO_2 emissions from biomass should not be counted, then, consistent with Oregon's policy of promoting responsible utilization of biomass, the Oregon rules should automatically implement the EPA position. We believe that this result can be achieved by adding a provision to the definition of greenhouse gas stating that CO_2 emissions from biomass are only regulated as a greenhouse gas until EPA issues a final determination as to CO_2

accounting for PSD applicability determinations. After that time, biomass CO_2 shall not be considered a regulated air pollutant to the maximum extent allowed by federal law. Alternatively, DEQ could pass a regulation exempting CO_2 from the combustion of biomass from regulation as a GHG and stay that provision until such time that EPA concurs. This approach avoids the creation of a serious disincentive that would make Oregon business uncompetitive with businesses in other states.

Definition of "Major Source" (OAR 340-200-0020(70))

AOI requests that DEQ revise the proposed revisions to the definition of "major source" to allow the inclusion of emissions decreases. DEQ is proposing to revise the definition of "major source" to specify that PTE must include emission increases due to a new or modified source. In this regard the DEQ rules are more stringent than the federal rules as the federal definition of "major source" does not take into account the emissions from a proposed project. While we recognize that in certain stages of evaluating whether a change is a major modification it may not be appropriate to include an evaluation of emission decreases, when evaluating whether a source will be a major source after modifications, it is absolutely necessary to include emission decreases. Given Oregon's unique means of applying the term "major source" including future increases and excluding future decreases in emissions would force sources that were making net reductions to be considered major sources and be subject to requirements such as nonattainment new source review (which is triggered in Oregon based on whether a source is a major source or not). This is a substantial increase in stringency and should not be adopted without extensive discussion.

Consistent with its comment above in relation to the definition of "Federal Major Source," AOI also requests that the Department revise the language in OAR 340-200-0020(70)(b)(B) to be clear that in order to be a major source of GHGs, a source must have the potential to emit 250 tons per year or more of GHGs and 100,000 tons per year or more of GHGs CO_2e. Both criteria must apply under the Tailoring Rule and the Department has indicated its intent to be consistent with the Tailoring Rule. Therefore, this definition should be revised.

Inclusion of Fugitive "Greenhouse Gas" Emissions in Major Source, Federal Major Source and Major Modification Definitions (OAR 340-200-0020(54), (69) and (70))

AOI requests that DEQ revise the definition of "major source" to exclude fugitive emissions from consideration except in relation to sources in one of the designated source categories. EPA's Tailoring Rule is clear that fugitive GHG emissions need only be considered in determining PSD and Title V applicability for sources within one of the designated source categories. Nonetheless, although DEQ has stated that it intends to be no more stringent than that Tailoring Rule requires, it is proposing that fugitive GHG emissions must be included for all sources when determining PSD or Title V applicability. We do not believe that such a

significant deviation from the Tailoring Rule should be added to DEQ's regulations without a more open discussion and further debate. Such a variation is neither required by nor consistent with federal law and so therefore there is no basis for including it in this expedited rulemaking.

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

AOI believes that DEQ should establish $PM_{2.5}$ SILs consistent with the federal SILs. We understand that Oregon has previously adopted PM_{10} SILs that were more stringent than the federal SILs. However, EPA has also stated its intention in its October 2010 regulations to withdraw some or all of the PM_{10} standards over time. If Oregon sets a $PM_{2.5}$ SIL based on what it has done for PM_{10}, then it will be hampered in its ability to raise the SIL in the future, once PM_{10} regulation changes, based on fears of backsliding. Therefore, even if the $PM_{2.5}$ SIL ends up higher than the PM_{10} SIL, we strongly encourage DEQ to adopt the federal SILs. No basis has been provided for why Oregon should exceed the federal requirements in relation to the SILs. By exceeding the federal requirements the Department places Oregon businesses in a noncompetitive position as compared to businesses in other states. This impacts small businesses as well as larger businesses as the rules would require even a small source seeking authority to emit only 10 tons/yr of $PM_{2.5}$ to perform complex modeling and to evaluate the results against the SILs. In order to avoid damage to the state's economy, we urge the Department to remain consistent with the federal requirements.

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

DEQ has an error in Table 1 in relation to the PM_{10} annual and 24-hour increments. The annual increment should be 4 $\mu g/m^3$ and the 24-hour increment should be 8 $\mu g/m^3$, rather than the annual increment being 48 $\mu g/m^3$.

$PM_{2.5}$ Precursor Offsetting

We urge the Department to clarify what is required under its rules in terms of $PM_{2.5}$ precursor offsetting. As proposed, AOI's members have found it very difficult to understand what is required in terms of precursor offsetting and what is allowed/required in the event of inter-pollutant trading. We request that the Department clarify these regulations so that they are more understandable.

Addition of Reporting Requirement (OAR 340-216-0040(4))

AOI is both confused and concerned regarding the proposed addition of a previously nonexistent requirement that sources promptly provide any new information regarding their sources or else face enforcement for failing to do so. AOI does not see the basis for adding this rule and certainly fails to see how it is related to the rest of the rulemaking. When the response at

hearings was that certain changes to the rules could not be made because they were not within the scope of this rulemaking, the addition of OAR 340-216-0040(4) seems glaringly out of place. This rule is unprecedented in addition to being out of context. Therefore, AOI requests that the Department withdraw this proposed regulation from the rulemaking until it can be fully discussed.

AOI notes that the justification for this addition given in the associated rule package is far from compelling. DEQ states that it wants to add this provision because a similar provision exists under the Title V regulations. AOI is unaware of any requirement that the ACDP regulations must match the Title V regulations in all particulars. Such an approach makes no sense given the difference in size and applicable requirements between the two permitting programs. Furthermore, the proposed language is not consistent with the Title V regulatory language in key aspects. OAR 340-218-0040(2) requires that Title V applicants supplement their applications during the time period where the application is being evaluated and acted on. This is very different from the apparently open ended requirement being proposed for ACDP sources. During the Portland public hearing, DEQ staff indicated that the intent was not to impose an on-going requirement to provide information to the Department above and beyond what is required by the source's permit. However, this proposed regulation could be read to impose just such a duty. Because of the potential far reaching impacts of this regulation, and the lack of discussion about it prior to proposal, AOI strongly urges the Department to withdraw the provision. If DEQ retains the provision, we request that similar language from the Title V rules be added so that it is clear that this requirement applies while the permit application is under review. Specifically, if DEQ insists on proceeding with this provision, we suggest revising the proposed rule to read as follows:

> *Duty to supplement or correct application prior to issuance of permit. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant must provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.*

GHG PSD Applicability Prior to July 1, 2011 (OAR 340-224-0010(5))

AOI requests that the Department revise its GHG PSD applicability provisions proposed for inclusion in OAR 340-224-0010(5). These provisions state that prior to July 1, 2011, a "new major stationary source for a regulated NSR pollutant" other than GHGs is subject to regulation for GHGs if it will have the potential to emit 75,000 tons/year or more of GHGs. Similarly, existing sources are subject to regulation for GHGs if they are major stationary sources for non-GHG pollutant(s), there is an increase in a non-GHG pollutant regulated pollutant and GHGs

will increase by 75,000 tons/year or more. We believe that what is written is not what is intended. Under Oregon law a major source is defined as a source that has the PTE any regulated air pollutant at the SER or more. As proposed, the Oregon rules would expose sources to PSD for GHGs before the federal rules would so require. We understand that this is not DEQ's intent. We believe that what was intended was to require new Federal Major Sources that also have a GHG PTE of 75,000 tons/year to have to undergo PSD for GHGs. Likewise, we believe that existing Federal Major Sources that have a significant emissions increase of a non-GHG regulated air pollutant and a GHG emissions increase of 75,000 tons/year or more over the netting basis would be subject to PSD for GHGs. As proposed, the underlined elements are missing from the rule resulting in the Oregon proposed rule being far more stringent than the federal rules.

GHG PSD Applicability After July 1, 2011 (OAR 340-224-0010(6))

AOI requests that the Department revise its GHG PSD applicability provisions proposed for inclusion in OAR 340-224-0010(6). These provisions state that on or after July 1, 2011, an existing source is subject to regulation for GHGs if it makes a physical change or change in method of operation that will result in an emissions increase of 75,000 tons/year of GHGs. However, this proposed rule language makes no recognition of the Oregon program and the requirement that the source have a major modification, e.g., that the source request a GHG PSEL that exceeds that GHG netting basis by 75,000 tons/year or more. As proposed, OAR 340-224-0010(6) would require that sources increasing GHGs by 75,000 tons/year or more undergo PSD even if the ultimate emission rate would not exceed the netting basis by that amount. We do not believe that this was DEQ's intent. We believe that what was intended was to require existing Federal Major Sources to undergo PSD for GHGs only if they request a GHG emissions increase of 75,000 tons/year or more over the GHG netting basis. As proposed, the rule requires the source to be regulated even if the ultimate GHG PSEL requested does not exceed the netting basis by an SER or more. We suggest that the rule be changed to remove this possibility.

Net Air Quality Benefit Requirement (OAR 340-225-0090))

The proposed rules address in several locations the requirement to demonstrate a net air quality benefit within nonattainment areas. AOI is supportive of the idea that sources wanting to locate in or near a nonattainment area must provide a net air quality benefit. However, AOI is very concerned with the process that the Oregon rules impose for establishing that a net air quality benefit has been achieved for pollutants other than ozone. In other jurisdictions, the applicant provides bona fide offsets from emission reductions that have occurred within the same airshed. This seems reasonable and is consistent with how Oregon addresses ozone offsets. However, for non-ozone pollutants, the Oregon rules require a complex modeling analysis of the impacts of the reduction as opposed to the source. As a result, sources can be blocked from relying on reductions generated in the heart of a nonattainment area to offset emissions that occur on the

fringe or even outside of the nonattainment area simply because the range of influence does not precisely overlap. This is counterproductive and results in less air quality improvement. Because the concept of net air quality benefit is so intertwined with the $PM_{2.5}$ regulations, we urge DEQ to remove the modeling requirement and allow sources to demonstrate net air quality benefit through the use of offsets generated in the same nonattainment area as the source that proposes to increase emissions (e.g., treat ozone and non-ozone net air quality benefit demonstrations the same).

$PM_{2.5}$ Precursor $PM_{2.5}$ Air Quality Analysis

On OAR 340-224-0070(2)(a), DEQ proposes to require that where a federal major source or a major modification at a federal major source results in an increase of $PM_{2.5}$ precursors of an SER or more, the source must provide an analysis of $PM_{2.5}$ impacts. However, there is no basis for an individual source to model indirect $PM_{2.5}$ emissions. Therefore, the rule should be revised to state that the source must provide an analysis of direct $PM_{2.5}$ air quality impacts.

AQRV Analysis Guidance

A key impact of the regulation of $PM_{2.5}$ will be the increased need to evaluate AQRVs. Therefore, as part of this GHG/$PM_{2.5}$ rulemaking, we encourage the Department to update the date reference for the definition of "FLAG" in OAR 340-225-0020(6) to reference the new version published in the October 27, 2010 Federal Register. 75 Fed. Reg. 66125 (Oct. 27, 2010).

Thank you for the opportunity to comment.

Sincerely,

John Ledger
Vice President

cc: Tom Wood, Stoel Rives LLP
David Like, Hampton Affiliates

Commenter No. 2

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November 24, 2010

BY EMAIL (Inahara.Jill@deq.state.or.us; AQFeb2011Rules@deq.state.or.us)
AND
FACSIMILE (503-229-5675)

Ms. Jill Inahara
Oregon DEQ, Air Quality Division
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Subject: Comments on Proposed $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

ATI Wah Chang and ATI Albany Operations (formerly Oremet) located in Albany Oregon, are one of the world's largest manufacturers of specialty metals and chemicals, used in energy production, chemical and mineral processing, aerospace, medical, research and consumer products, employing over 1,300 union and administrative employees. We appreciate this opportunity to comment on the proposed rules that would add $PM_{2.5}$ and greenhouse gas (GHG) requirements to the Department's regulations.

The proposed $PM_{2.5}$ and Greenhouse Gas Regulations are some of the most significant changes to the Oregon Air permitting program in recent years and could have serious

consequences to Oregon business' ability to remain competitive in the U.S and global market place.

ATI Wah Chang and ATI Albany Operations would like to recommend the following specific comments on the proposed rules:

1) We encourage DEQ to adopt of "Option 1", as listed in the Alternative Rule Options document, wherein a source's netting basis for GHG and PM2.5 is proportional to its current netting basis for other pollutants. This is consistent with the existing Oregon PSEL program and would be more easily adopted by permit holders, and does not penalize sources for reduced production levels over the last few years due to the economic recession.

2) There has been some discussion from the Department indicating that it is considering adopting the federal PSD program for GHG permitting. ATI Wah Chang and ATI Albany Operations strongly oppose this direction and prefers that the Department continue with the existing Oregon PSEL program for all pollutants for the following reasons:

   a) Adoption of the federal PSD program will likely lead to considerable confusion for industrial sources, as well as, cause additional burden to DEQ permitting staff who are not accustomed to or trained in the EPA PSD rules.

   b) Tracking changes under the Oregon PSEL program provides clarity and consistency – PSD/NSR cannot be 'accidentally' triggered under Oregon's rules.

   c) EPA's PSD program acts as a disincentive for early emissions reductions, while Oregon's PSEL program does not.

3) ATI Wah Chang and ATI Albany Operations recommend that DEQ establish PM 2.5 SIL's consistent with the Federal SILs, not more stringent.

4) ATI Wah Chang and ATI Albany Operations request that an "opt-out" provision be placed into the rule so that if the Federal GHG permitting rule is vacated or stayed by Congress, or the courts, that the Oregon rules pertaining to GHG permitting shall also be vacated or stayed.

Finally, ATI Wah Chang and ATI Albany Operations strongly support the comments submitted by Associated Oregon Industries (AOI). We urge the Environmental Quality Commission to adopt these suggestions.

Thank you for the opportunity to comment.

Sincerely,

Lee Weber, Director
Environmental Services

Commenter No. 3

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Environmental Manager

Boise Cascade

November 24, 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 $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

Boise Cascade Wood Products, L.L.C. (BC Wood Products), a wholly-owned subsidiary of Boise Cascade, L.L.C., currently operates eight wood products mills in Oregon. These mills and the associated administration offices currently employ approximately 1500 people in Oregon. Each of these mills operates in accordance with an Air Permit issued by Oregon Department of Environmental Quality (ODEQ) and will therefore be directly affected by the proposed $PM_{2.5}$ and Greenhouse Gas Regulations. Therefore, I am submitting the comments to the proposed regulations in support of these BC Wood Products mills.

BC Wood Products is a member of Associated Oregon Industries (AOI) and supports comments to the proposed air regulations submitted by AOI in their November 24, 2010 letter to you. Specifically, BC Wood Products supports extending the current ODEQ PSD program to both $PM_{2.5}$ and to greenhouse gases. Such an approach would maintain the consistency of the current program for all regulated pollutants and avoid complications inherent in mixing the ODEQ PSD program with the federal PSD program. The ODEQ PSD program is well-understood by both the agency and the permittees, and it has been implemented very successfully for many years.

BC Wood Products operates mills in states that implement the federal PSD program, so we understand the significant differences in the two programs. BC Wood Products recognizes that both PSD programs have there own strengths and weaknesses, but a

side-by-side comparison would probably yield little significant difference in the environmental protection achieved by the two programs. If ODEQ wanted to conduct such a comparison, there are more reliable ways to do so than implementing different programs for greenhouse gases and the other pollutants. It is also our observation that it is easier for Oregon sources to evaluate whether modifications will trigger PSD permitting compared to sources in states that implement the federal program. Typically, our Oregon sources can make PSD applicability determinations themselves, while our sources in other states typically rely on consultants to assist with their applicability determinations due to the complexity of the rules and the constantly moving netting baselines and offsets.

BC Wood Products also supports AOI's recommendation to allow facilities an option for calculating its PM2.5 and GHG netting baseline as described in AOI's comments. This approach allows a source to take a proportional share of it's PM_{10} netting basis or the actual $PM_{2.5}$ emissions from the baseline period. Such an approach avoids unfairly penalizing sources with small PM_{10} netting basis. Facilities should be allowed an option for calculating GHG netting baseline for similar reasons.

AOI's comments also raise issues that are not currently addressed in the proposed rulemaking and BC Wood Products supports these comments and hopes that ODEQ will carefully consider and adopt AOI's recommendations.

Thank you for the opportunity to comment.

Sincerely,

Russell Strader

Cc John Ledger, AOI
Tom Woods, Stoel Rives
Jim Jackson, Boise, Inc.
Kathy Sperle, Boise Cascade, L.L.C.
Bart Barlow, Boise Cascade, L.L.C.

Commenter No. 4

Boise Paper
1300 Kaster Road St. Helens, OR 97051
T 503 397 2900

BOISE

November 24, 2010

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

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

Subject: Comments on Proposed PM2.5 and Greenhouse Gas Regulations

Dear Ms. Inahara:

Boise White Paper LLC owns and operates a mill in St Helens, OR that supports two paper machines and about 190 staff and contractors. These jobs provide family-wage incomes and are vital to the area. Air permitting issues are of critical importance to the operation of this facility and our ability to compete and provide jobs.

We are a member company of Associated Oregon Industries (AOI) and strongly support the comments submitted by Associated Oregon Industries (AOI). Please adopt these suggestions. Thank you for the opportunity to comment.

Sincerely,

Russell Burns
Site Manager

Cc: Alison Dean/Boise White Paper LLC
Rich Garber/Boise Inc

Commenter No. 5

INAHARA Jill

From: Lee Fortier [lfortier@roguedisposal.com]
Sent: Wednesday, November 24, 2010 11:16 AM
To: AQFeb2011Rules
Cc: INAHARA Jill
Subject: PM2.5/GHG Hearing Presentation Comments

Hello Jill,

Thank you for taking the time to explain the new $PM_{2.5}$ & GHG rule proposals. While these new rules will have a significant impact on our regulatory permit tracking and reporting, my main concern is over the baseline approach chosen by the Department. One of the most significant issues proposed for the new rules is the establishment of the baseline year for $PM_{2.5}$. As discussed at the hearing, we recognize that for some industrial sectors the years 2006 and 2007 may represent normal, pre-recession operations. However, other companies trailed into recession later. Therefore, we see no rational basis for choosing a specific year (or two years) as the default baseline with no opportunity to rely upon a more representative year. We understand that the Department is considering allowing the discharger to choose a year between 2000 and 2010. We see no reason not to choose this approach so long as the source commits to the year and does not change it once the year is elected. Further, the Baseline Emission Rate calculation will have different impacts to all dischargers. We would favor one that provides the greatest flexibility to all permittees.

Dry Creek Landfill built a $6,000,000 landfill gas to energy facility that initiated operations in the summer of 2007. Operations from that point forward will represent the source of our emissions for the probable life of the landfill. To force us to choose a baseline year other than 2008, when all startup issues were resolved, could place the operation of a very expensive "Green Energy" facility in jeopardy.

Thank you for the opportunity to comment on the proposed rules. Lee

Lee Fortier, P.E.
Vice Present & General Manager
Dry Creek Landfill, Inc.
Office: 541-494-5411
Cell: 541-210-6223
Fax: 541-830-8387

Commenter No. 6

Dyno Nobel Americas

DYNO
Dyno Nobel

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

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

DYNO NOBEL INC.
St. Helens Plant
63149 Columbia River Hwy
Deer Island, Oregon
97054 USA
Telephone: 503-397-2225
Fax: 503-397-7551
www.dynonobel.com

11/24/2010

RE: Comments on Proposed $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

Dyno Nobel Inc. - St. Helens Plant is a manufacturer and supplier of ammonia, urea, urea ammonium nitrate solution, and carbon dioxide, and as such is subject to the impending regulation of greenhouse gases. Pursuant to the Prevention of Significant Deterioration and Greenhouse Gas Tailoring Rule, the facility will be required to apply for a Title V Operating Permit in July of 2012 due to level of Greenhouse Gases (GHG) emitted by the facility. We appreciate the opportunity to comment on the proposed rules, as the addition of both $PM_{2.5}$ and GHG regulations have the potential to significantly affect the ability of the facility to operate in a cost competitive manner.

Of the options listed on the Oregon Department of Environmental Quality's webpage for New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and other Permitting Rule Updates, the Dyno Nobel- St. Helens plant prefers proposed Option 4 for GHGs and proposed Option 1 for $PM_{2.5}$, provided the option exists for the allowance of actual $PM_{2.5}$ emissions in the baseline period. These options are addressed separately in the statements given below.

GHG Regulations:

The facility would prefer the adoption of the Federal Netting Method for GHG Emissions (Option 4) because it does not place the facility at a competitive disadvantage when compared to other ammonia plants in other parts of the country. Other ammonia plants will have the opportunity to increase their production by the full Significant Emission Rate (SER) without being penalized for production increases that occurred 20 years ago. If the St. Helens facility is required to set the netting basis proportional to the netting basis in effect on 3/1/2011, the facility will be at a competitive disadvantage. Stoichiometrically three carbon dioxide molecules are created for every four ammonia molecules. Thus, because the carbon dioxide is created as a

DYNO
Dyno Nobel

co-product there is not a mechanism for reducing carbon dioxide without reducing the production of ammonia.

The intent of the Oregon Prevention of Significant Deterioration (PSD) program is to create an incentive for reducing plant wide emissions. Because this is not an issue of energy efficiency, and instead is a direct consequence of ammonia production, the facility will never be able to reduce the production of carbon dioxide without also reducing the production of ammonia. Because of this, the facility will be penalized for projects that have occurred more than ten years ago. In the federal program, a ten-year look-back has been consistently utilized. By moving in lock-step with the federal program, the Oregon GHG PSD program has the opportunity to remain contemporary and fair when compared with the rest of the country. Oregon is in need of job growth and economic expansion, and a permitting program that puts any company at an economic disadvantage is not advantageous to Oregon.

$PM_{2.5}$ Regulations:

The facility would prefer the adoption of establishing a netting basis that is proportional to the netting basis for other pollutants (Option 1) with the option of establishing actual emissions from the $PM_{2.5}$ baseline period. As proposed, Option 1 would require that a source take the proportionate share of its existing PM_{10} netting basis for $PM_{2.5}$. If the source has no PM_{10} netting basis, then it may take the actual $PM_{2.5}$ emissions from the $PM_{2.5}$ baseline period. The facility would prefer that the department provide optionality regardless of whether or not a PM_{10} netting basis exists. For the St. Helens facility taking a proportionate share of its existing PM_{10} netting basis could trigger retroactive PSD permitting because the facility has a relatively small PM_{10} netting basis. Because the facility's Plant Site Emission Limit for PM_{10} is 55 tons and the netting basis is 42 tons, the facility would exceed the SER for $PM_{2.5}$ if the facility found that the $PM_{2.5}$ emissions were equal to the PM_{10} emissions. Thus this proposed regulation would require the reduction of the facility's PM_{10} emissions by more than 3 tons in order to avoid the arduous and expensive PSD permitting process.

The St. Helens facility provides 60 family wage jobs in Deer Island, Oregon and is one of the few manufacturing facilities that continues to provide jobs in a county that faces an 11.8% unemployment rate. The penalties referenced above in addition to the cost of Title V permitting would greatly increase the cost of doing business in Oregon. Should you have any questions regarding these comments, please call me at 503-397-7502. Thank you for the opportunity to comment.

Regards,

Alicia R. Little

Alicia Little
Environmental Coordinator
Phone: +1 503 397 7502
e-mail: alicia.little@am.dynonobel.com

Commenter No. 7

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
AIR, WASTE AND TOXICS

November 24, 2010

Reply To
Attn Of: AWT-107

Ms. Jill Inahara
Program Operations
Washington Department of Ecology
811 SW 6th Avenue
Portland Oregon 97204

Re: EPA's Comments on the Proposed Revisions to Oregon Department of Environmental Quality's (ODEQ's) New Source Review, Particulate Matter, Greenhouse Gas and Other Permitting Regulations

Dear Ms. Inahara:

Thank you for the opportunity to review and comment on ODEQ's proposed rule revisions, dated October 15, 2010. Our comments on these revisions follow:

General Comments

In submitting these comments, EPA's review focused on the changes to regulations proposed in this rulemaking. Importantly, provisions of current regulations not open for comment in this rulemaking may affect the approvability of the regulation changes in this proposed rulemaking.

Please also note that these comments contain our current views based on a preliminary review of the proposed rule. These views should not be considered EPA's final position, which we will reach only through notice and comment rulemaking after the state has submitted a rule for our approval as a SIP revision.

OAR 340-200-0020(3)(b): Under the definition of "Actual Emissions", paragraph 0020(3)(b) should be amended to read *"....but was permitted **or approved** to construct and operate...."* to be consistent with the previous paragraph 0020(3)(a)(C).

OAR 340-200-0020(7)(h): The revision to the definition of "Aggregate insignificant emissions" adding a threshold for greenhouse gases needs to include language indicating that the 1000 short tons value is measured as CO_2 equivalent (CO_2e). A mass GHG threshold of 1000 tons could be a major source (e.g., if all 1000 tons on a mass basis was nitrous oxide it would be equal to 310,000 tons CO_2 e), not an insignificant source.

OAR 340-200-0020(54): The revision to the definition of "Federal Major Source" is not consistent with the EPA requirements as set forth in the "Tailoring Rule." The Tailoring Rule

did not change the size thresholds that define a Federal Major Source. Major sources are still determined based on the potential to emit 100 or 250 tons per year or more of a regulated pollutant on a mass basis. The Tailoring Rule only changed the definition of "regulated NSR pollutant" by adding a new definition that clarified when a pollutant, and specifically GHGs, was "subject to regulation" under the Act. GHGs are only subject to regulation under the Act when they exceed certain thresholds based on a CO_2 equivalent (CO_2 e) basis, not a mass basis. Small quantities of GHGs, far lower than 100 tpy on a mass basis, will be subject to regulation under the Act because they exceed 100,000 tpy on a CO_2e basis (e.g., 4.1841 tpy mass basis of sulfur hexafluoride (SF_6) equals 100,000 tpy CO_2e). But a source that has the potential to emit 4.2 tons per year of SF_6 on a mass basis is not a Federal Major Source because it doesn't exceed the 100/250 tpy mass threshold. Essentially, there is a two-part test in order to determine a Federal Major Source with respect to GHGs. First, GHGs must be a regulated air pollutant – that is the source must have the potential to emit 100,000 tpy or more on a CO_2 equivalent (CO_2 e) basis. Then the source must also have the potential to emit 100 or 250 tpy or more on a mass basis.

EPA sees two options for revising this definition. One would be to drop the new language regarding GHGs and add language to the definition of "regulated air pollutant" similar to what is being added to the applicability provisions of Division 224 (specifically, the new language at 224-0010(5)). Then it would be clear when GHGs are a regulated pollutant and the existing 100 and 250 tpy mass thresholds would be applied per this definition. The second option would be to replace the new language here with language that states that, for GHGs, in addition to having PTE greater than or equal to 100 or 250 tpy on a mass basis, the source must also have PTE greater than or equal to 100,000 tpy on a CO_2 equivalent (CO_2 e) basis.

OAR 340-200-0020(70): The revision to the definition of "Major Source" has the same problem as the revised definition of "Federal Major Source" in that it doesn't correctly reflect the two-part test for GHGs. In addition, the 100,000 tpy threshold needs to include language specifying that it is measured as CO_2 equivalent (CO_2 e).

OAR 340-200-0020(84): The new definition of "Ozone Precursor" should include language regarding the measurement methods similar to the language in the definition of "PM_{10}" when used in context of emissions (or the new language regarding $PM_{2.5}$ precursor emissions) especially to distinguish between ambient NO_2 and NO_X emissions.

OAR 340-200-0020(95)(b): We assume ODEQ removed the conditional test method (CTM) citation because CTMs are no longer being developed. We recommend that other test method (OTM) 027 for $PM_{2.5}$ and PM_{10}, that has superceded CTM 040, be cited here. As with the current definitions of "PM" and "PM_{10}," this definition needs to reference the appropriate EPA or ODEQ emissions measurement method in order to distinguish ambient $PM_{2.5}$ from $PM_{2.5}$ emissions.

OAR 340-200-0020(103)(a)(B): It isn't clear that the provision in the definition of "Regulated air pollutant" or "Regulated Pollutant" that references the national ambient air quality standards ((103)(a)(B)) includes any precursors to such pollutants. This should be clarified in the text.

OAR 340-200-0020(148)(d): Note that paragraph (d) in the definition of "Volatile Organic Compounds" appears to be missing the last line. The EPA definition of the term in 40 CFR51.100 includes a few more words and the identification of the actual compound subject to the provision.

OAR 340-200, new Table 1: The new Table 1 SIGNIFICANT AIR QUALITY IMPACT includes Class III impact levels for SO_2 that are higher than the Class II impact levels established by EPA in 40 CFR 51.165(b) (all other Class II and Class III impact levels are the same). Oregon will need to submit a demonstration that such higher levels will still ensure protection of the NAAQS in Class III areas. We also note that both the Class II and Class III levels for PM_{10} and $PM_{2.5}$ are lower than the EPA levels for those pollutants in 40 CFR 51.165(b) (for PM_{10}) and 51.166(k)(2) (for $PM_{2.5}$).

Also new Table 1 specifies Significant Air Quality Impact values for $PM_{2.5}$ of 0.2 $\mu g/m^3$ (annual arithmetic mean) and 1.0 $\mu g/m^3$ (24-hour average) respectively. These differ from the corresponding Class II and III areas $PM_{2.5}$ SILs of 0.3 $\mu g/m^3$ (annual arithmetic mean) and 1.2 $\mu g/m^3$ (24-hour average) established by EPA and published in the Federal Register on October 20, 2010 (FR 64864). Please clarify why these values are different?

OAR 340-202-0210, Table 1: There is a typo in Table 1. For Class I areas, the PM_{10} increments should be 4 and 8 $\mu g/m^3$ respectively for the annual arithmetic mean and 24-hour maximum respectively.

OAR 340-216-0020, Table 1 Part C (No. 5): It must be clear that the 100,000 tons of GHG here is in terms of CO_2 equivalent (CO_2 e), not mass emissions. See comments on OAR 340-200 above regarding GHG emission thresholds.

OAR 340-224-0010(5): This new applicability provision for GHGs needs to include language indicating that the 75,000 tpy value is measured as CO_2 equivalent (CO_2 e).

OAR 340-224-0010(6): This new applicability provision for GHGs needs to include language indicating that the 100,000 tpy value is measured as CO_2 equivalent (CO_2 e) and that a new stationary source ((0010)(6)(a)) or an existing stationary source ((0010)(6)(b)) is subject to regulation when it emits, will emit, or has the potential to emit 100,000 tpy **or more**

OAR 340-224-0050(3): The additional requirements for sources in nonattainment areas are only required to apply to sources that are major for the nonattainment pollutant. Since GHGs are not criteria pollutants and never will be nonattainment pollutants, these provisions need not apply to GHGs. However, if ODEQ does include GHGs here, it needs to include language indicating that the 100,000 tpy value is measured as CO_2 equivalent (CO_2 e). See also comments in OAR 340-200 above on GHG emission thresholds.

OAR 340-224-0060(1): For consistency and accuracy, the text in 0060(1) should be amended to read *"...must apply BACT for each maintenance pollutant or precursor(s) emitted at **or above** a SER."*

OAR 340-224-0070(2)(a): To be consistent with paragraph 0070(2), paragraph 0070(2)(a) should be amended to read *"For increases of $PM_{2.5}$ precursors **equal to or greater than** the precursor significant emission rate, ..."*.

OAR 340 224-0070(5): It is not clear why this new provision for sources impacting $PM_{2.5}$ nonattainment areas is necessary. It appears to duplicate the requirement of 340-224-0070(2)(b). Since 340-224-0050(2) refers to 340-225-0090 both 0070(2)(b) and this new 0070(5) appear to require the same thing.

OAR 340-225-0020(3)(a): The clarification to the definition of "baseline concentration" is consistent with EPA's definition and the definition in section 169 of the Act. When submitting this regulation as a SIP revision, Oregon must demonstrate that the regulation is consistent with previous interpretations so it cannot be construed to be a relaxation. The old language could be interpreted to mean that **all** emission increases from new sources and modifications occurring after January 6, 1975 but before January 1, 1978 consume increment, while the new language could be interpreted to mean that only emission increases from **major** new sources and **major** modifications consume increment.

OAR 340-225-0090(2)(a)(D)(ii): Even with the conditions provided in this paragraph, it may be too broad an assertion to state that a small-scale local energy project and associated infrastructure provides a net air quality benefit without conducting air quality dispersion modeling to confirm this. We are not aware of similar provisions in the SIPs of other states. Therefore, before Region 10 can consider this for inclusion in the Oregon SIP, we will need to consult with EPA Headquarters and other Regions.

Again, thank you for the opportunity to comment. If you have any questions or concerns regarding this letter or would like to discuss these matters further, please contact me at (206)-553-0296.

Sincerely,

Scott Hedges

Scott Hedges
Environmental Engineer
State and Tribal Air Programs Unit

Enclosures

c: Debra Suzuki, EPA Region 10
Julie Vergeront, EPA Region 10
Dave Bray, EPA Region 10

Commenter No. 8

ENVIRONMENTAL TECHNICAL SERVICES, LLC
4848 Airway Drive
Central Point, Oregon
97502
Office: 541-779-2646
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November 23rd, 2010

Oregon Department of Environmental Quality
Program Operations
811 SW 6th Avenue
Portland, Oregon 97204
Phone: (53) 229-5001, Extension 5001

Attention: Ms. Jill Inahara

Subject: *Comments For New Source Review Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates*

Dear Ms Inahara:

After attending the public hearing in Medford, Oregon on November 23rd, 2010 with respect to the NSR/PSD and greenhouses gases (GHG), Environmental Technical Services, Inc. offers the following comments on the Proposed Rulemaking. We are an air quality emission testing and consulting firm operating in Central Point, Oregon that serves industrial wood products manufacturing clients in California, Georgia, Montana, South Carolina, Oregon, Washington, and Wisconsin.

Comment #1
With respect to the issue of Particulate Matter 2.5 Micron Diameters or Less ($PM_{2.5}$), it appears that permanent rule making is under way and definite without allowing source test methods to develop so that industry sources can quantify existing ($PM_{2.5}$) emissions from sources at their respective facilities.

This is potentially catastrophic mistake, and to date, no acceptable test method exists that allows a wood products source that is saturated to test and measure ($PM_{2.5}$) emissions from a wet scrubber or wet-ESP control device that is currently controlling emissions from their manufacturing facility.

While a method exists to quantify ($PM_{2.5}$) from non-saturated source (i.e. dry-esp from a hogged fuel boiler), data from this test method EPA 201A and its derivatives are only accurate plus or minus 50% of the mean value. From a pure statistics point of view, this methodology leaves a lot to be desired.

With the above facts stated, it appears that the need to regulate ($PM_{2.5}$) emissions subscribes to the statement, "What facts won't support, conviction will carry". It appears that common sense (i.e. the quantification and collection of data) is need before the rulemaking process can begin.

Comment #2

Netting basis in Oregon ACDP or Title-V Operating Permits have historically been dated around the 1978 and/or 1978 calender year(s). During the public hearing, it was stated that PM_{10} baselines could have the potential to become all $PM_{2.5}$ baseline emissions for the 1978 and or 1978 calendar years. Four different options were presented for ($PM_{2.5}$) / GHG NSR/PSD.

Historically for forest products sources, 1978 and/or 1978 calendar year would probably be the preferred method Netting Basis. However, one issue that I am quite concerned about is assuming that PM_{10} emissions are $PM_{2.5}$ emissions and vice versa.

Let's examine the permitting and regulatory activity (including enforcement action) of VOC emissions from the forest products industry from roughly 1970 to present with implementation of the PWCP MACT. From 1970 to late 1980's little was known about VOC emissions. Many air permits for wood products manufacturing facilities (lumber mills, plywood plants, particleboard mfg., and MDF mills) contained generic (AP-42 or its comparables) plant site emission limits and /or emission factors) for VOC emissions, however little was known about the specific compounds of these VOC emissions and the speciation of terpenes from VOC laden gas streams.

Sampling and test methods for these compounds was limited to EPA Method 25, and while it was good at the time, it lacked the real- time data of the analyzer method, EPA Method 25A. EPA Method 25A allowed data to be collected easily, but at the time it was accepted by regulatory authorities, it was determined that the method only detected 50% of methanol in the gas stream, none of the formaldehyde emission, and the analyzer co-mingled methane emissions as VOC emissions, due to the calibration gases in many cases being propane.

Hence, as a result of the above situation, non-methane VOC (NMVOC and NMTHC) measurement techniques became the primary means of determining VOC emissions. Around 2006 to 2007, ODEQ adopted the "VOC on an VOC Basis" policy of determining VOC emissions from wood products sources, which in hindsight is what should have been done all along, and could have been implemented, 10 to 12 years ago, without much trouble.

The above activities and shifts in regulatory stance resulted in many, if not all of wood products manufacturing firms, to understate their VOC emissions. When better emissions factors were developed and thus incorporated into each facilities air permit PSEL baseline adjustments were required. Some manufacturing firms did not fare so well out of this process, as Weyerhaeuser Company, Willamette Industries, and Boise Cascade Corporation, to name a few, were served with EPA scrutiny and Consent Decree orders and were heavily penalized for understating their VOC emissions.

Given the above history with VOC emissions and the wood products industry, I am deeply afraid that we as a group are headed to the same mistakes and process with $PM_{2.5}$ emissions and PSEL regulation. In summation, how can we regulate effectively without effective means and technology to measure $PM_{2.5}$ emissions from wood products sources ?

Comment #3 – GHG and GHG PSEL Regulation

The subject of Greenhouse Gases (GHG) for forest products company owners that also own timberland and forests is becoming a touchy one. Currently forest products company owners and ownership that own manufacturing or conversion facilities (mill's) that also own timberland and forestland that sequesters CO_2 gases and emissions are being held to an increasing pile of fees (i.e. annual GHG reporting fees and related annual paperwork). The adoption of an ODEQ policy and regulation that places the GHG manufacturing emissions in Title-V and ACDP permits as part of PSEL is headed to a place that can summed up as "taxation and regulation without representation".

In essence under this proposed regulation, many company owners will be faced with higher fees and administrative costs, without realizing the benefit of forest ownership that sequesters CO_2 and GHG emissions. In other parts of the world (i.e. New Zealand and regulation under the Koyto Treaty) each hectare of forest can sequester 25-30 metric tons of CO_2 per annum. Starting 2011 many forest owners in New Zealand have the options of receiving "carbon credits" and using these credits as offsets or selling them and receiving income for the sequestering of carbon based emissions. It appears bothersome that nations under the Koyto Treaty have adopted this solid policy, yet we in the United States have yet to discuss it, and take what is beneficial from it. It could easily be applied fairly to industry and our local, state, and federal governments in the United States.

The current ODEQ and EPA policies do not take these issues into respect of parties that own CO_2 sequestering assets, and thus manufacturing owners are in some ways being regulated at both ends of the spectrum, and being stuck with fess without and "netting basis" for the CO_2 or the CO_2 equivalent offsets (forests) that they have owned and operated for years.

In conclusion, thank you for your time and consideration in these matters.
If you have any questions please feel free to contact me at (541) 601-9469.

Respectfully Submitted,

Mr. James DeHoog, Ph.D.
General Manager
Environmental Technical Services, Inc.

Commenter No. 9

November 24, 2010

BY EMAIL (AQFeb2011Rules@deq.state.or.us)

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

Subject: Comments on Proposed $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

Intel Corporation ("Intel") has substantial operations in the State of Oregon. Intel's Oregon operations form the company's largest and most comprehensive site in the world, a global center of semiconductor research and manufacturing and the anchor of Oregon's economy. Intel's capital investments in Oregon since first acquiring property in 1974 total approximately $18 billion and Oregon is poised for significant additional capital investment with the announcement of the construction of the new D1x facility. Already Intel is Oregon's largest private employer with approximately 15,000 employees in the state. Intel is the largest property taxpayer in Washington County with payments of approximately $30 million/year. As the company expands its Oregon operations, it will add to that employment and tax base and continue to enhance Oregon for years to come.

Given Intel's large existing presence in Oregon and its commitment to expand its Oregon operations, we care deeply about how the Department is proposing to amend its rules to address $PM_{2.5}$ and greenhouse gas (GHG). We appreciate this opportunity to comment on the proposed regulations so as to ensure that they benefit the environment while not posing undue obstacles for business.

Intel has a longstanding commitment to reducing GHG emissions in Oregon (and elsewhere around the globe). Intel's GHG emissions derive from two sources, combustion emissions and process emissions (primarily PFC emissions). Intel has an established energy conservation program with the goal of reducing energy consumption, on a normalized basis, by 5 percent annually. This goal ensures that combustion derived GHG emissions are constantly being optimized at our Oregon campuses notwithstanding the tremendous growth in production that we have experienced. A similar story exists for process GHG emissions. Semiconductor manufacturing requires the use of PFCs which are regulated GHGs. Intel has made tremendous strides to reduce PFC emissions from its Oregon operations. The result has been that emissions, on a CO_2e basis, have dropped since 2000 from approximately 410,000 short tons per year to just

over 125,000 short tons per year in 2009. This 70 percent decrease in GHG emissions occurred during a time that production at the Oregon facilities increased by approximately 300 percent. This translates to an approximately 90 percent decrease in GHG emissions per unit of production in Oregon. To accomplish this amazing feat, Intel has installed millions of dollars in controls at each manufacturing site in Oregon and has also engaged in chemical substitution to chemicals that were more amenable to control. Intel is continuing to invest tremendous time and money into GHG emission prevention and emission control. In preparing these comments we are mindful of what we have achieved at a time that most industries were not investing heavily to reduce GHG emissions and we hope that our comments are read in light of this strong and ongoing commitment to reduce GHG emissions.

Intel Recommends that DEQ Retain Its State PSD Program for GHGs

Intel encourages the Department to retain its unique state PSD program for GHGs. DEQ indicated that it is considering adopting the federal PSD rules (i.e., 40 CFR 52.21) for GHGs rather than keeping GHG regulation consistent with the means by which other regulated air pollutants are addressed in Oregon. Intel believes that this would be bad policy for Oregon and therefore encourages the Department to adopt its proposed "Option 1," i.e., that Oregon regulate GHGs consistent with all other regulated air pollutants.

Intel believes that the adoption of the federal PSD program for GHGs would lead to considerable confusion in the regulated community. Intel has major operations in other states where the federal PSD program applies and so has extensive experience with PSD applicability determinations in the context of the semiconductor industry. Intel has always valued the Oregon PSD approach. In Oregon a source seeking an emission limit that exceeds its netting basis by a significant emission rate or more must demonstrate through modeling that it will not cause or contribute to an air quality violation. If a major source or modification in a nonattainment or maintenance area or a Federal Major Source in an attainment area, it must employ state of the art controls (BACT or LAER). Once these requirements are met, the source is then able to establish a bright line (the Plant Site Emission Limit or "PSEL") against which it can thereafter measure its PSD compliance. Industries such as Intel value certainty and predictability. The Oregon PSEL provides both. In contrast, the federal PSD applicability test is considerably different and extremely complicated and often confusing. It involves a multipart test that requires sources to look as far back as 15 years ago in a constantly changing applicability evaluation. Thus Intel believes that applying the federal PSD program for GHGs and GHGs alone in Oregon would create considerable confusion and add greatly to the Department's workload.

Intel believes that Oregon's means of approaching PSD is far more focused on air quality protection than the federal PSD system. There are many subtle but important ways in which the

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Oregon PSD program is more stringent than the federal program. For example, a 200 ton per year source can increase its emissions by an additional 200 tons per year and never trigger federal PSD. This is due to the fact that the definition of "major modification" in 40 CFR § 52.21 only applies once a source is a major source. Where a source starts as a minor source (i.e., 200 tons per year of emissions) and proposes an increase that is itself less than the 250 ton per year major source threshold, the source never triggers PSD. Relating this to GHGs, a 99,000 ton per year CO_2e source could add another 99,000 tons per year CO_2e of emissions and never trigger PSD. This would not occur under the Oregon program where the source is evaluated taking into account the post-change emissions. This example is just one of many ways in which the Oregon program provides greater certainty for industry, but does so while being more protective than the federal PSD program.

Intel also believes that adoption of the federal PSD program for GHGs would eliminate the strong historic incentive that the Oregon program has provided to proactively reduce emissions. As EPA acknowledges, the federal PSD program creates powerful incentives for companies to hold back on making emission reductions until the company knows that new equipment is to be added. This is the result of the 5 year period that is available for netting. If a company proactively decreases emissions and 6 years later chooses to expand, it loses any benefit from the making the emission reduction early. Thus companies in other states tend to hoard any reductions and wait to implement them until they need them to enable a plant expansion. The Oregon program, by contrast, has always had incentives under the PSEL program to reduce emissions and to operate equipment in as low-emitting a manner as possible. This concept is particularly important to Intel as the company has proactively worked for over a decade to find new ways to reduce GHG emissions. Intel hopes to continue such technology forcing measures, but will be discouraged from doing so if Oregon implements the federal PSD program.

Intel strongly encourages DEQ to apply the Oregon PSD program to GHGs. However, if Oregon opts to apply the federal PSD program to GHGs, we request that the agency adopt all portions of the federal rules, including the Plantwide Applicability Limit (PAL). While not nearly as well thought out as the PSEL, the PAL could at least provide limited flexibility to Intel if the federal PSD program is implemented for GHGs in Oregon.

Intel Recommends Allowing Flexibility in the Establishment of $PM_{2.5}$ Baseline Emission Rates

Intel is a relatively minor source of $PM_{2.5}$ emissions. Nonetheless we suggest that the Department allow sources, such as ourselves, with a small PM_{10} netting basis, options in how they set their $PM_{2.5}$ baseline emission rate. The proposed rules require that a source take the proportionate share of its existing PM_{10} netting basis for $PM_{2.5}$. Only if a source has no PM_{10} netting basis may it utilize the actual $PM_{2.5}$ emission rate from the $PM_{2.5}$ baseline period for

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establishing its $PM_{2.5}$ baseline emission rate. We do not see a reasonable basis for forcing sources to take a percentage of their PM_{10} netting basis where they have good data backing up their actual emissions. We recognize that for some sources the proportional approach results in a far more equitable outcome while for other sources the ability to rely on actual emissions is critical to their very existence. We suggest that so long as sources are consistent and do not change their method for setting their $PM_{2.5}$ baseline, it should not matter which avenue they choose.

Intel Recommends Similar Flexibility in Setting GHG Baseline Emission Rates

Similar to the method for establishing $PM_{2.5}$ baseline, Intel suggests that the Department allow sources the discretion to choose which of two methods they use to establish their GHG baseline emission rate. The proposed rules require that a source calculate its combustion GHG emissions based on the same production rate used to calculate the netting basis for other combustion pollutants. However, for sources like Intel that have relatively low baseline combustion emissions, establishing this approach as mandatory penalizes the company. By means of example, Intel's actual GHG combustion emissions in 2009 were approximately 20 percent higher than the GHG emission rates scaled up from baseline fuel usage. Therefore, Intel is penalized for having a baseline emission rate for combustion sources as compared to the newer source that does not. This is particularly ironic for Intel when the reason that it has a baseline emission rate is because the Ronler Acres campus (post-1978) was determined to be collocated with the Aloha campus (which was operating in 1978). However, the currently planned new fab and most of the combustion GHG emissions are at Ronler Acres. Therefore, Intel is penalized for having stepped up and accepted Aloha and Ronler Acres as collocated facilities. Therefore, we believe that all sources should have the option of either calculating baseline combustion GHG emissions using fuel usage parameters underlying the current criteria pollutant netting basis or through the use of the actual combustion GHG emissions from the baseline period.

Intel also recommends that sources with process emissions have the same choice of either using netting basis parameters to set the GHG baseline emission rate or using actual emissions from the GHG baseline period. The proposed rule requires that sources use in establishing the GHG baseline emission rate the relationship between GHG emissions and the same production parameters used to calculate the current netting basis for non-GHG pollutants. We believe that the most effective means of addressing process GHGs is to allow sources to make a choice as to how to establish baseline. A source should be allowed to either choose the netting basis parameter approach or the actual emissions approach in establishing GHG baseline. A source would have to choose which method it was using at the time it initially established its GHG baseline. Once that choice is made, we respect that the Department would want to prohibit the

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source from changing. Such a limitation on changing computational methods is consistent with the baseline freeze already captured under the rules.

In case the Department opts not to provide sources the flexibility to choose either the netting basis parameter approach or the actual emissions approach for setting GHG baseline, we request clarification as to which approach would apply in our context. The semiconductor industry has changed profoundly since 1978 and we believe that in Intel's case, GHG emissions are not related to the production parameters that were used to establish the netting basis. Therefore, we believe that we would be required, under the proposal, to use actual emissions during the GHG baseline period to establish our GHG process emission baseline emission rate. We believe that this is the only logical interpretation of the proposed rules in light of the profound difference between what Intel manufactured in 1978 and what it manufactures today. However, we would appreciate DEQ confirming this to be the case in the agency's response to comments document. We believe that the use of such a real life example would assist others to better understand the rules.

Intel Recommends Clarification of the Approach Used for Determining Baseline for Equipment Permitted but not yet Built

Intel has considerable equipment that is fully authorized under the Division 210 requirements, but that will not have commenced normal operation during the baseline period. Intel requests that the Department confirm in its response to comments that in light of the proposed revisions to the definition of "actual emissions," the GHG baseline emission rate attributable to equipment will equal the potential to emit of that equipment where that equipment has been approved for construction prior to December 31, 2010 but has not yet begun normal operations by January 1, 2011. We believe that this is the necessary outcome in light of the proposed changes but would appreciate your confirming our interpretation.

Intel Believes that DEQ Erred in its Federal Major Source and Major Source Definitions

DEQ's proposed rules include definitions of "Federal Major Source" and "Major Source" that Intel believes have major deficiencies. EPA was very clear in the Tailoring Rule that to be major for Title V or PSD for GHGs, the source had to meet both of the following two criteria:

> "(1) The GHG emission source, which is not major for another pollutant, emits or has the potential to emit GHG in amounts that equal or exceed the following, calculated as the sum-of-six well-mixed GHGs on a mass basis (no GWPs applied):

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- 100 tpy for sources in any of the 28 major emitting facility source categories listed under PSD, or
- 250 tpy for any other stationary source.

"(2) The GHG emission source emits or has the potential to emit GHGs in amounts that equal or exceed 100,000 tpy CO2e basis."

75 Fed. Reg. 31513, 31523 (June 3, 2010). A similar two part test is applied for Title V applicability. See, 75 Fed. Reg. 31524. In DEQ's rules, by contrast, the 100,000 ton per year criterion appears to be based on absolute tons rather than CO_2e. The 100/250 ton per year criterion appears to be missing altogether. As we understand that DEQ intends to be consistent with the federal Tailoring Rule, we suggest that the Department revise its regulations to make the applicability tests consistent with federal law. Intel does not anticipate that this change will affect its regulatory status. However, making this change will speed the evaluation and approval of the Oregon program by EPA and that benefits all sources.

Intel Requests that the Department Not Include Fugitive GHG Emissions Unless Federal Law so Requires

Intel requests that DEQ revise the definition of "major source" to exclude fugitive emissions from consideration for sources not in one of the 28 designated source categories. Under EPA's Tailoring Rule, fugitive GHG emissions need only be considered in determining PSD and Title V applicability for sources in one of the 28 designated source categories. Nonetheless, DEQ is proposing that fugitive GHG emissions must be included for all sources when determining PSD or Title V applicability. We do not believe that this is consistent with the Department's stated goal of being consistent with EPA's Tailoring Rule. Inclusion of fugitive GHG emissions for non-designated source categories is neither required by nor consistent with federal law and so Intel suggest that the Department not require inclusion of fugitives at this time except as required under EPA's PSD regulations.

Intel Requests that the Department Clarify GHG PSD Applicability under Division 224

Intel requests that the Department revise its GHG PSD applicability provisions proposed for inclusion in OAR 340-224-0010(5) and (6). As with the definition of Federal Major Source and Major Source discussed above, the tests in OAR 340-224-0010(5) and (6) fail to identify the two part GHG applicability test outlined in the Tailoring Rule. In addition, the language in (5)(b) suggests that prior to July 1, 2011, an existing source that is major for non-GHG pollutant, and that has any increase in a non-GHG pollutant, will trigger PSD for GHGs if GHGs increase by 75,000 tons per year or more. We believe that what was intended was that GHGs only trigger

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PSD prior to July 1 if the existing source triggers PSD for a non-GHG pollutant and the GHG emissions increase by 75,000 tons per year CO_2e. We believe that what is written is not what is intended. Under Oregon law a major source is defined as a source that has the potential to emit any regulated air pollutant at the SER or more. As proposed, the Oregon rules would expose sources to PSD for GHGs before the federal rules would so require. We believe that what was intended was to require existing Federal Major Sources that have a significant emissions increase of a non-GHG regulated air pollutant and a GHG emissions increase of 75,000 tons/year or more (CO_2e) over the netting basis would be subject to PSD for GHGs. As proposed, the underlined elements are missing from the rule resulting in the Oregon proposed rule being far more stringent than the federal rules.

Intel believes that there are similar problems with the OAR 340-224-0010(6). This rule states that on or after July 1, 2011, an existing source is subject to regulation for GHGs if it makes a physical change or change in method of operation that will result in an emissions increase of 75,000 tons per year of GHGs. However, under the Oregon program a source must request a GHG PSEL that exceeds that GHG netting basis by 75,000 tons/year or more to trigger PSD. As proposed, OAR 340-224-0010(6) would require that sources increasing GHGs by 75,000 tons per year or more undergo PSD even if the ultimate emission rate would not exceed the netting basis by that amount. We believe that what was intended was to require existing Federal Major Sources to undergo PSD for GHGs only if they request a GHG emissions increase of 75,000 tons/year or more (CO_2e) over the GHG netting basis.

Intel appreciates this opportunity to comment and we hope that our suggestions will serve to improve Oregon's regulatory program.

Sincerely,

Scott Stewart
Senior Environmental Engineer
Intel Corporation

cc: Todd Rallison
Tom Wood

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Commenter No. 10

KNIFE RIVER®
MATERIALS
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Southern Oregon Division
OR CCB #56603 - CA CSLB #567735

November 23, 2010

Jill Inahara
DEQ, Air Quality
811 S.W. 6th Ave.,
Portland, Oregon 97204

Re: Comments on Proposed Greenhouse Gas and Particulate Pollution Rules to Align with Federal Regulations

Contrary to the DEQ News Release on the above referenced matter the proposed amendments go beyond what is required to "...update state regulations for fine particle pollution and greenhouse gases in order to align them with new federal regulations". Also contrary to the DEQ News Release that "....the amendment will not affect the stringency of Oregon's air quality permitting program..." the amendment will affect the stringency of its program.

Any amendments to the DEQ program should bring the DEQ program closer to EPA's Regulations. For instance DEQ's use of a fixed baseline instead of the EPA's netting basis to compute Significant Emission Rate Should not be allowed to continue. DEQ needs to revise it Prevention of Significant Deterioration program rules to align it with EPA's regulations. Similarly, the DEQ's reporting threshold for Greenhouse Gas should be increased to match the EPA's threshold. There is no reasonable explanation for the DEQ to continue to diverge from the EPA. Allowing this to continue increases the costs and complexity of the program, without any defined benefits.

In the DEQ proposed rules a source would need to establish a ratio between its PM 2.5 and PM 10 emissions through testing only. Sources should have the option of using the ratio based upon the Particle Size Category by AP – 42 section. If modeling analysis is required for an area, having PM 2.5 default to PM 10 will result in compounding conservative worst case conditions.

Given the statement "DEQ's proposed Class II and Class III Significant Impact Level (SIL) are lower than EPA's values because DEQ established lower levels in the early 1990's for PM10 due to significant air quality problems is the Medford area". However, the DEQ has concluded in its December 10, 2004 State Implementation plan for PM10 in the Medford Ashland Air Quality Maintenance Area that "The analysis demonstrates that no new emission reduction strategies are

needed to maintain compliance." There is no reason for the DEQ to impose stricter SIL's than what the EPA requires.

Instead of trying to enforce new lower standards for the most difficult, expensive and inaccurate testing of PM 2.5. The DEQ should be looking at standards for total PM matter based on testing with an allowance for use of existing tables of site developed ratios to establish particle size gradation. They should also recognize that geography plays a large role in air pollution problems and efforts should be made to reduce pollution at those specific times when the air shed becomes stagnant.

Sincerely,

Knife River Materials,

Thomas S. Gruszczenski, PE
Aggregate Resource Manager

MICROCHIP

November 24, 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

RE: Comments on Proposed $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara,

I am the Environmental, Health and Safety Manager for Microchip Technology Inc. I would like to provide some comments on the proposed $PM_{2.5}$ and Greenhouse Gas (GHG) Regulations for Oregon.

Microchip is a semiconductor manufacturing company with a facility in Gresham, OR. The Gresham facility was purchased in August 2002. Microchip currently has over 450 employees working in Oregon. Our business is growing. We have hired over 100 new employees in 2010, and will have over 700 employees when our facility is at full build out. We are committed to our employees and our community. Microchip is one of the only semiconductor manufacturers to not lay off any employees during the recession. In July 2006 Microchip received an Oregon Green Permit which is awarded by Oregon DEQ only to facilities that achieve superior environmental performance. Microchip also engages in local procurement of goods and services and, through its employees, participates in civic activities like FIRST Robotics, the City of Gresham Chamber of Commerce and the Mount Hood Community College Foundation.

Air permitting issues are of critical importance to the operation of our facility. In order to be competitive on a global level and to continue hiring new employees, we need to have the flexibility to expand our production operations. In the PM2.5/ GHG regulatory proposal, DEQ has indicated that it is considering adopting the federal PSD rules for GHGs rather than keeping GHG regulation consistent with the regulation of other regulated air pollutants. Microchip would encourage DEQ to adopt regulations that treat GHGs in a way that is consistent with how other regulated air pollutants are treated. As Microchip is increasing production we have been very proactive in reducing air emissions including GHG emissions with point of use abatement. The EPA PSD program has disincentives for making early emission reductions.

Microchip would agree with DEQ that Option 1 for determining a GHG baseline makes the most sense to the semiconductor industry, which has both fuel combustion and production parameters for GHG emissions.

Microchip strongly supports the comments submitted by the Associated Oregon Industries (AOI). We would urge that the Environmental Quality Commission adopt these suggestions.

Thank you for the opportunity to comment.

Sincerely,

Mari Chesser

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Commenter No. 12

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December 1, 2010

Jill Inahara, Permit Coordinator
Oregon DEQ, Program Operations,
811 SW 6th Avenue,
Portland, OR, 97204.
(503) 229-5001
E-Mail: AQFeb2011Rules@deq.state.or.us

Re: Proposed rulemaking regarding New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates

Northwest Environmental Defense Center (NEDC) submits the following comments concerning the proposal by the Oregon Department of Environmental Quality (DEQ) to issue new regulations concerning the Prevention of Significant Deterioration (PSD) for particulate matter less than 2.5 microns (PM2.5) and greenhouse gases (GHGs).

NEDC is concerned that DEQ's proposal fails to adequately match the baseline period and baseline concentrations. If individual emissions levels are not set from the same date range as the monitoring data, then DEQ's rules will not ensure compliance with the national ambient air quality standards (NAAQS) or PSD increment. NEDC is therefore concerned that DEQ's rules allow sources to choose a different baseline year with little to no guidance on when this is proper or how DEQ plans to account for this different baseline period.

More fundamentally, NEDC is concerned that DEQ has failed to fully and independently analyze the costs and risks of its proposed regulations and is instead following in the footsteps of its Plant Site Emission Limitation (PSEL) program. The current PSEL program has failed to live up to the standard Oregonians expect: the PSELs are unenforceable as a practical matter, DEQ's implementation of the PSELs fails to ensure compliance with the NAAQS and PSD increment, and the PSEL program has incentivized industry to keep dirty sources operating instead of replacing them with newer, cleaner sources. DEQ should take the implementation of PSD rules for PM2.5 and GHG as an opportunity to move away from this failed program and take steps to make Oregon's program consistent with the federal program.

DEQ should instead implement the PSD program for PM2.5 and GHGs in line with the federal program and begin moving all other pollutants to this system. At a minimum, DEQ should take this opportunity to consider how the federal rules work in practice by adopting the federal program for GHGs. If DEQ decides to implement the PM2.5 PSD program through the PSEL program, DEQ should mandate that the baseline emission rate be set for the same period

for which DEQ has monitoring data, or at the very least implement stringent guidelines that direct the limited instances when a different baseline period may be chosen.

DEQ Should Not Implement the PM2.5 and GHG PSD Programs Through the PSEL Program.

PSELs Are Unenforceable As a Practical Matter.

NEDC is worried about the unenforceable nature of the PSELs. As applied to PM2.5, the unenforceable nature of these regulations is highlighted by DEQ's attempt to estimate the level of PM 2.5 at sources in relation to the source's PM10 levels. In relation to the potential health risks associated with PM2.5, the inability to adequately enforce the permit requirements is troubling. DEQ has stated that "any increase in actual emissions above the PSEL requires the source to apply for, and DEQ to approve, a revision to the PSEL in the state air quality construction permit." DEQ, *FAQ: Relationship to Federal Requirements New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates*, pg. 3. (FAQ). However, without adequate monitoring and reporting requirements sources are able to avoid the permitting requirements needed to protect the health of Oregon residents from the specific harms caused by PM2.5.

In Oregon, to qualify as a major modification, a change must result in "an increase in the PSEL" over the significant emission rate over the netting basis. OAR 340- 200-0020(66)(a). The first problem with Oregon's approach is that the PSEL is a permit limit, not a calculation of actual emissions or potential to emit of a new unit. A PSEL is "the total mass of emissions per unit of time of an individual air pollutant specified in a permit source." OAR 340-200-0020(88). A PSEL is a plant-wide cap on annual emissions in a permit limit that is intended to function as a federally and practically enforceable limit on a source's potential to emit (PTE). Because the PSEL is a permit limit, the source must apply for an increase in its permit limit to ever qualify as a "major modification" under OAR 340-200-0020(66)(a). However, the focus of the determination must be on whether actual emissions increase, not whether the permit limit changes.

The second problem with Oregon's program is that it requires a "major modification" to result in increase in permitted (not actual) emissions that is equivalent to an increase over the SER on a plant-wide basis. Instead of focusing on the pollution increase from the new emissions unit, Oregon's program determines whether an emissions increase is significant by reference to the entire facility. In this way, Oregon's program features "automatic netting" based on a permit limit from the 1970s, or in the case of one of proposed rules, from the more recent baseline period. Thus, so long as the source had a PSEL in excess of emissions projected from the source after a physical or operational change, and never banked those emissions, no PSD permit is required.

The third problem with Oregon's PSEL approach is that the PSEL is not based on projected or actual emissions during a time-frame that is contemporaneous with the physical or operational change in question, but during the "baseline period." OAR 340-200-0020(3). The rules define baseline period as "any consecutive 12 calendar month period during calendar years

1977 or 1978," OAR 340-200- 0020(14), or the more recent baseline period. Oregon's definition of "baseline period" also allows DEQ to use an earlier time period "upon a determination that it is more representative of normal source operation." Id. The baseline emission rate is then adjusted as rules change and future permitting decisions are made. The adjusted baseline is referred to as the "netting basis," and is defined as follows:

> 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 emissions credits transferred off site, PLUS any emission increases approved through [NSR] regulations.

OAR 340-200-0020(71).

The resultant "netting basis" in many cases may not reflect actual emissions at any time that is reasonably contemporaneous with the physical or operational change in question. In fact, the "netting basis" reflects a thirty-year "lookback" period, in clear contravention of the federal regulatory floor. Thus, the PSELs are unenforceable on a practical level leading to the next problem.

The PSEL Program Fails to Live Up to Its Goal of Ensuring Compliance With the NAAQS and PSD Increment.

Further, the PSEL program has failed to meet DEQ's own goals and requirements regarding the NAAQS and PSD increments. DEQ has stated that goals of the PSEL program is to provide the basis for:

> 1) assuring reasonable further progress towards attainment of ambient standards;
> 2) assuring compliance with ambient standards and PSD increments (the maximum concentration increase that is allowed to occur above a baseline concentration for a specific pollutant);
> 3) administering the emissions trading program; and
> 4) tracking PSD increment consumption (the cumulative impact of emissions growth in areas that meet air quality standards). FAQ, pg. 3.

NEDC is concerned that in practice the PSELs fail to adequately meet these lofty goals and comply with the federal program. The PSEL program is only concerned with a specific source's "allowable" emissions, while both the NAAQS and PSD increments are tied directly to "actual" emissions because they are concerned with "actual" concentrations of pollutants in the air shed. From the start, then, the administration of the PSEL program is disconnected with goals it is intended to achieve.

Regarding goals 1 and 2, above, the PSEL program fails to account for slippage and thus the "maximum concentration increases" for many sources are above what the PSD increment should allow.

In the same light, the PSEL program fails to achieve goal 4 because it fails to properly address the cumulative effects of emission growth. The PSEL program does not adequately

consider these cumulative impacts due to the lack of monitoring data and the allowance of slippage in older sources. These inadequacies unfortunately have negative health and environment impacts on the region.

DEQ's explanation of how the PSEL program is consistent with the federal program is lacking. For instance, DEQ states that:

> "PSEL rules are consistent with the requirements of the Clean Air Act as they allow increases in *actual* emissions only if such increases would not exceed applicable emission limitations, or cause ambient air quality standards, PSD increments or reasonable further progress to be violated."

DEQ, *FAQ: Relationship to Federal Requirements New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates*, pg. 3. However, as mentioned above, the PSEL program is based on "allowable" not "actual" emissions. Because PSELs are set based on potential emissions, OAR 340-222-0041, and thus create a ceiling for the operation of the source, they do not reach the actual emissions of the source. For instance, a facility that only runs two 8-hour shifts, but has the *potential* to run three 8-hour shifts, even the source never has and never intends to, could increase actual emissions from their two shifts by 50%, which would be up to their "allowable emissions," without triggering the PSD program under Oregon's current rules. Conversely, assuming this increase in actual emissions were over the significant emission rate, the federal program would be triggered and the source would be required to meet the requirements of the PSD program. This highlights how the Oregon PSEL program is inconsistent with the federal program, and leads directly to the next major problem with the PSEL program, namely that it encourages the continued operation of old, dirty sources.

The PSEL Program Encourages the Continued Operation of Old, Dirty Sources When They Would Otherwise be Replaced with New, Cleaner Sources.

The current PSEL program places too much concern on "creep" instead of focusing on the larger problem of "slippage" with old, dirty sources in the region. Slippage allows grandfathered sources to continue polluting the region. Old sources whose retrofits would trigger the federal PSD program, instead simply have their life extended and keep polluting indefinitely.

NEDC is concerned that DEQ has systematically underappreciated the risk of "slippage" when assessing the values of the PSEL program. Slippage is where a source has slowly deteriorated to the point where it can no longer function at what was its original design capacity. The source is then retrofitted with newer equipment or other physical modifications such that it can again run at its previous potential. If the deterioration had occurred more than five years prior to the retrofit, the changes would trigger the federal PSD program and this older source would have to meet all the requirements of the program. Under the Oregon program, because the "allowable" emissions never changed during the deterioration of the source, and assuming the source does not want to increase its PSEL, the Oregon PSEL program would screen this source from the requirements of the PSD program.

Grandfathering of sources was never supposed to let a source escape strict controls forever; it was assumed that these sources would be shut down at the end of their useful life or life extending projects would trigger PSD and the application of stricter emissions controls. This is the grand compromise that Congress made in the Clean Air Act: allow sources that are currently in operation to escape the strictest requirements with the understanding that they would eventually trigger these requirements when they undertook major projects. Instead the PSEL program lets these inefficient sources run forever, so long as their allowable emissions do not increase. By allowing these older, inefficient, and dirty sources to operate, in essence, indefinitely, the PSEL program undermines incentives that the facility has to replace older sources with newer, cleaner, more efficient sources.[1]

As bad as this problem is currently, allowing the PSEL program to apply to PM2.5 and GHG emissions would allow such sources to further degrade our region's air quality. Programs related to PM2.5, GHGs, and other harmful pollutants should incentivize their reduction, not their continued existence.

DEQ has indicated that their main concern is not with slippage, but is instead with "creep." Creep is the process by which a source could systematically increase their potential emissions without triggering the federal PSD program. Under the federal program, only emission increases within ten years are considered.[2] A source could then increase emissions, so long as the increase is below the significant emission rate, every ten years without triggering the federal PSD program. DEQ's concern for creep is however overblown. When a source undertakes a project to increase emissions, they may consider the applicability of the PSD program, but they are unlikely to make this their top priority. The top priority for these sources is the gains they can make through the modifications: the increase in emissions is not, in and of itself, the goal of these projects. DEQ has provided no basis for their concern about creep: other states have been implementing a system like the federal program for years, and yet NEDC is unaware of any massive problems in other states with creep. Furthermore, the potential increases in actual emissions due to creep occur over a long time period and could potentially be addressed through changes to DEQ's minor source review, while slippage is currently unregulated under Oregon's program.

The Federal Program is a Workable Program with an Abundance of Guidance on Implementing the Program.

Oregon's PSEL program, like other DEQ innovative programs, is unique under the Clean Air Act. While this may be a source of pride for DEQ, it makes implementing the program

[1] The PSEL program also subsidizes current facilities to the detriment of facilities that may want to move into Oregon. Because the PSEL program allows current facilities to operate almost indefinitely without meeting the strictest requirements of the Clean Air Act, these facilities have a competitive advantage over any facilities that wish to be located in Oregon in the same industry that would have to meet these, sometimes costly, requirements. In this light, the PSEL program can be seen, not only as undermining the goals of the Clean Air Act, but also stifling business opportunities in Oregon.

[2] The requirements for Electric Generating Units (EGUs) are slightly different under the federal program and have only a five year look-back period.

difficult because, when faced by difficult questions about the program and how it operates, DEQ consistently makes ad hoc or irrational decisions without fully anticipating all of the potential consequences. Comparatively, the federal program is implemented by most other states and by EPA and therefore has a wealth of interpretive guidance on the implementation of the program. Implementation of the federal program would therefore save DEQ time and money and would reduce the number of ad hoc decisions DEQ has to make and revise.

Because the PSEL program does not have a federal or state counterpart, understanding how the program works falls squarely on the shoulders of DEQ. This has lead to inconsistent, irrational and ad hoc decisions on what portions of the program mean and how they should be implemented. DEQ does not have any resource for interpreting the program except itself, and so often cavalierly announces new interpretations in permitting decisions, caring little for how they will affect future permitting decisions

For instance, DEQ recently released an interpretation of "netting basis" in regards to PGE's Boardman plant. This interpretation stated that decreases required by rule would take effect on the netting basis upon adoption by the agency. This interpretation was advanced, no doubt, to correct the problem identified above: namely that the PSEL program relies only on allowable emissions and is disconnected from actual emissions. PGE had announced plans to build an *entirely new* generating facility at the Boardman site. Without this new DEQ interpretation of netting basis, PGE could have constructed that new facility without ever subjecting it to PSD review because their actual emissions were massively below their allowable emissions; PGE would not have had to increase their PSEL to allow operation of the new facility, and therefore would not trigger PSD review.

Not only does this example point out the immense potential problems with the PSEL program, but it highlights the short sighted nature of DEQ's decision-making process. The new interpretation of netting basis was only explained, and possibly only considered, in light of the situation at Boardman. DEQ did not examine or explain how this new interpretation would affect other facilities. As commenters pointed out in response to DEQ's proposed permit for PGE Boardman which advanced this new interpretation, the interpretation would lead to absurd results, potentially subjecting facilities to PSD review for projects that *decreased* emissions. There is little doubt that if that scenario should come to pass, DEQ would likely reverse its previous interpretation, or twist itself in knots trying to limit the interpretation to the sole case of PGE Boardman.

The above is just one example of DEQ's repeated ad hoc decision making. This sort of decision making, void of any context or consideration of future application, leads to uncertainty, inconsistent application, and absurd results.

This is therefore an instance where the federal program has a clear advantage over Oregon's PSEL program. There is an immense wealth of information on the implementation of the federal PSD program. There are court cases, EPA adjudications by administrative law judges and the Environmental Appeals Board, EPA guidance documents, and thousands of actual

permitting decisions made by EPA and other states.[3] So when confronted with a difficult question in the PSD program, EPA and other states implementing a program like the federal program can simply search through these sources of information to find out a) whether someone has answered the question, or one like it, already, b) how they came up with that answer, c) how that answer has been implemented, and d) whether that answer has been implemented successfully. Because these sources are available to everyone, it helps ensure a consistent regulatory environment with less ad hoc decisions making.

Not only would adopting the federal program save DEQ time in the initial determination of answers, it would save time on the back end as well by reducing the number of these decisions which DEQ will have to reconsider after new circumstances show how short sighted the original decision was. This is good not only for DEQ, but also for businesses and citizens by providing a stable regulatory structure so that everyone knows, or can figure out, the answer beforehand.

Because of the advantages of the federal program and the deficiencies of Oregon's PSEL program, DEQ should take this opportunity to move away from the PSEL program and begin implementing the PSD program in line with the federal program.

If DEQ Implements PM2.5 Through the PSEL, DEQ Should Mandate That the Baseline Emission Rate be Set Based on Emissions During the Period for Which DEQ Has Monitoring Data Or Limit Discretion to Move Away From This Period.

If DEQ decided to forego NEDC's suggestion that it adopt the federal program to implement PM2.5, it should at the very least mandate that the baseline emission rate be set based on the emissions during the baseline period, with, at most, limited potential for divergence.

As noted above, the PSEL program is intended to ensure compliance with the NAAQS and PSD increment. Both of these programs are based on actual emissions within the air shed. The only way that the PSEL can actually ensure compliance with these programs is if the baseline emission rates are set based on actual monitoring data from the baseline period. DEQ's proposed options 1 and 2 do not connect the baseline emissions rate to the baseline period and these proposed would therefore not ensure compliance with the NAAQS or PSD increment.

Compliance with the NAAQS and PSD increment is determined in comparison to the baseline concentration within the air shed. The baseline concentration is determined through the monitoring data that DEQ has for the baseline period. This baseline concentration is the concentration of the pollutant in the air shed, which obviously is based on what was actually emitted into the air shed during the baseline period. It is for this reason that the standard is to tie the specific baseline emission rates for sources to their actual operations during the baseline period.

If the baseline emission rates are not set based on the actual operations during the baseline period, then the PSEL program cannot ensure compliance with the NAAQS or PSD

[3] For instance, EPA Region VII has an electronic, searchable, database of both permitting decisions and guidance documents. http://www.epa.gov/region7/air/nsr/nsrpg.htm.

increment. For instance, [4] if the baseline concentration is 0.1 ppm, based on actual emissions during that period of 100 tpy, but DEQ adjusts the baseline emission rates at the behest of industry to 150 tpy, there is no guarantee that this will still correspond to a baseline concentration of 0.1 ppm. This could instead, for instance, correspond to an air shed concentration of 0.15 ppm. When DEQ then analyzes future projects, if it still presumes that it beginning with the actual monitored concentration in the air shed of 0.1 ppm, it will not fully consider the actual emissions in the air shed and this could lead to a violation of the NAAQS or PSD increment.

This problem could potentially be resolved through the use of modeling data to indicate what the baseline concentration would have been had the sources been operating at the baseline emission rate DEQ has assigned them. However, NEDC is concerned that over reliance on modeling to fill in the potential gaps in DEQ's understanding of air shed concentration turn the PSD program from a program intended to protect *human health* to a program intended to ensure that the model is not violated.[5] While modeling is an essential element of the implementation of the Clean Air Act, reliance upon modeling when actual monitoring data exists is a mistake. There may be little choice to use modeling data, but DEQ should not compound the inaccuracies of modeling by increasing its use beyond what is necessary. Disconnecting baseline emission rates from the baseline concentration compounds this problem.[6]

Because the use of modeling data to disconnect baseline emission rates from the baseline concentration runs contrary to the intended purpose of the PSD program, DEQ should require that the baseline emission rates for sources be set based on the actual monitoring data that DEQ has. While this is likely not the best case scenario for businesses, DEQ's goal is to protect human health and the environment, not business profits.

NEDC's Specific Comments on DEQ's Proposed Options

Option 1 fails to link PSELs to the baseline concentration in the air shed and therefore will not meet the PSEL program's goal of ensuring compliance with NAAQS and PSD increment. DEQ provides little guidance on how the "fraction" will be established. There is no indication that DEQ will require further testing of the source to ensure that the fraction remains the same, potentially allowing massive increases in PM2.5 emissions and the result specific health effects.

Option 2 would subject facilities to PSD for any increase over current PSEL and could lead to massive increases in *actual* pollution. By setting PSELs at PTE for ALL sources constructed after 1978, Option 2 would allow massive increases in actual emissions in the air shed and allow for violation of the NAAQS or PSD increment with impunity. Even more so than Option 1,

[4] These numbers are obviously not correlated to reality, but instead intended to demonstrate the issues associated with disconnecting the baseline emission rate from the baseline period.
[5] Similar to the potential effects of the PSEL program, this could also stifle growth in Oregon because existing sources would magically be able to take part of the PSD increment without going through PSD review, reducing the amount of the increment available to future sources.
[6] DEQ's own experience with the disconnect between modeling and monitoring data with the Portland air toxics programs should be enough to caution against the overreliance on modeling.

Option 2 would wholly disconnect the PSEL program from the programs it is supposed to support, making the PSEL nothing more than a bureaucratic and accounting exercise in futility.

Option 3 is better because it ties the baseline period to when DEQ actually has monitoring data, ensuring that the PSEL program actually meets its goal of ensuring compliance with the NAAQS and PSD increment. If adopted, DEQ should outline very specific requirements for when DEQ will diverge from the baseline period for setting baseline emission rates.

Option 4 is best. The PSEL program has failed to live up to what Oregonians expect and DEQ should move away from it. Option 4 is a good first step down that road.

Thank you for your consideration of these comments.

Sincerely,

John Krallman
Air Quality Group, NEDC

Kenny Key
Air Group Project Coordinator, NEDC

Commenter No. 13

NORTHWEST PULP&PAPER

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Transmitted via e-mail: AQFeb2011Rules@deq.state.or.us

November 24, 2010

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

RE: New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates

Dear Ms. Inahara:

Thank you for your work on this important issue, holding and the opportunity to provide public comment on the New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates administrative rule making on behalf of the Northwest Pulp and Paper Association (NWPPA). We consider this to be a precedent setting rule revision that will shape Oregon's air permitting program for the next decade.

NWPPA is a 54-year old regional trade association representing pulp and paper manufacturing sites in the Pacific Northwest on environmental and energy public policy issues. NWPPA routinely comments on public policy matters before government advisory committees, administrative rule makings at state agencies, permitting matters and legislation under consideration in state legislatures. Our members hold environmental permits issued by the DEQ. On behalf of NWPPA, I have participated in the summer 2010 stakeholder workshops and provided advisory comment on the emergency rule making on a portion of these rules.

Overarching Policy Comments

Federal versus Sate Air Program for Greenhouse Gas

NWPPA strongly supports Oregon's retaining authority to regulate greenhouse gas (GHG) rather than adopting the federal program for PSD in 40 CFR 52.21.

NWPPA supports retaining the Oregon way of approaching air permitting and supports the Department adopting regulations for GHG consistent with how other regulated air pollutants are treated in Oregon administrative rules.

Discussion: NWPPA believes retaining Oregon regulatory authority for GHG will: provide regulatory consistency, reduce regulatory burden, reduce permit holder confusion, and maximize

agency resources because DEQ will not have to implement a different regulatory approach for a portion of regulated pollutants. NWPPA also is gravely concerned that the federal approach creates disincentives for voluntary early pollutant reductions – an action that NWPPA has always supported as a matter of policy across all environmental regulatory programs.

$PM_{2.5}$ Baseline Emission Rate

NWPPA supports the Associated Oregon Industries (AOI) position in their November 24, 2010 comment letter on calculating baseline for PM 2.5 – that the Department allow dual options – specifically a source should have the option of either taking the proportionate share of its PM_{10} netting basis or the actual $PM_{2.5}$ emissions from the baseline period.

$PM_{2.5}$ Precursor Baseline

NWPPA supports the AOI position for an additional rule provision that address precursors that insofar as NOx and SO_2 serve as $PM_{2.5}$ precursors, there should be a separate netting basis established that is consistent with the $PM_{2.5}$ netting basis procedures.

GHG Baseline

NWPPA supports the AOI positions and suggestions on all aspects of calculating baseline emission rates for GHGs and alignment between federal and state programs if the federal program were to be delayed.

NWPPA Supports All AOI Rule Comments dated November 24, 2010

NWPPA wholeheartedly supports the comment letter of AOI, dated November 24, 2010, on the proposed $PM_{2.5}$ and greenhouse gas regulations.

Discussion: NWPPA and AOI share members who hold Title V air operating permits and who will be regulated by the proposed rules. All NWPPA's Oregon members are in accord with the AOI policy positions and suggested revisions to the proposed administrative rules.

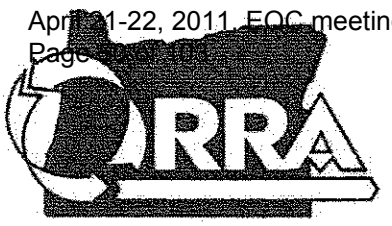
NWPPA appreciates the Department's extensive work on these important air regulations and thanks the Department for the opportunity to provide comment. I can be contacted at 503-844-9540 to answer any questions.

Sincerely,

Kathryn VanNatta
Northwest Pulp and Paper Association

cc: NWPPA Membership
AOI

Commenter No. 14



OREGON REFUSE & RECYCLING ASSOCIATION

November 24, 2010

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

sent via email only to:
AQFeb2011Rules@deq.state.or.us

Subject: Comments on Proposed $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

Oregon Refuse & Recycling Association (ORRA) is the statewide trade association representing the majority of private solid waste management companies in Oregon. ORRA members collect and process most of Oregon's residential and commercial refuse and recyclables, as well as operate material recovery facilities and many of Oregon's municipal solid waste transfer stations and landfills.

Thank you for the opportunity to comment on the proposed rules that would add $PM_{2.5}$ and greenhouse gas (GHG) requirements to the Department's regulations. Air permitting issues are of critical importance to the operation of our members' facilities and their ability to compete and provide local jobs. We specifically support the comments submitted by Associated Oregon Industries (AOI). The significant effort that AOI put into their comments is reflective of the serious nature of the proposed regulations. ORRA strongly supports AOI's comments regarding the determination of the Baseline Emission Rate [OAR 340-200-0020(13)], as these regulations will affect landfills in the state that have spent tens of millions of dollars on state-of-the-art "Green Energy" projects utilizing landfill gas. We also agree with AOI's comments regarding the Definition of "Greenhouse Gas" [OAR 340-200-0020(59)] excluding CO_2 emissions from biomass. Finally, we support DEQ's option for allowing the permittee to determine the facilities baseline year between the years 2000 and 2010, when many of the referenced landfill gas to energy facilities were built.

We also urge the Environmental Quality Commission to consider these suggestions when reviewing the proposed regulations.

Thank you for this opportunity to comment.

Sincerely,

Holly Sears
Governmental Affairs Director

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Portland General Electric Company
121 SW Salmon Street • Portland, Oregon 97204

November 24, 2010
ES-254-2010
Gov Rel 9
General

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 $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

Portland General Electric Company ("PGE") appreciates the opportunity to comment on the proposed changes to the New Source Review/Prevention of Significant Deterioration rules to add $PM_{2.5}$ and GHG to the regulations. Below are our comments to specific elements of the proposal.

Adoption of Federal PSD Rules for Greenhouse Gases (GHG)

The Department has asked for comment on whether or not it should adopt the federal PSD rules for regulating GHG instead of maintaining consistency with existing regulated pollutants. PGE believes that adopting the federal PSD program for GHG would lead to confusion for industrial sources. The differences between the methodology used in the federal and the state PSD programs would lead to unnecessary additional complexity in an already complex set of regulations. Regulating GHG emissions under the Oregon methodology would result in consistency within the program as well as a more stringent program.

PM2.5 Baseline Emission Rate

PGE supports the Department's proposal to establish $PM_{2.5}$ baseline emission rates utilizing a proportion of the sources exiting PM_{10} netting basis if they have one, or a proportion of their actual PM_{10} baseline period emissions. However, PGE requests that the Department not require

sources utilize a proportion of its PM_{10} netting basis to establish a $PM_{2.5}$ baseline emission rate if the source has actual $PM_{2.5}$ emissions data from the baseline period.

PM2.5 Precursor Baseline

In order to prevent post 1978 sources with zero NO_X or SO_2 baseline emissions from triggering PSD for $PM_{2.5}$ for NO_X or SO_2 without triggering PSD for $PM_{2.5}$ itself, PGE recommends that the Department establish $PM_{2.5}$ precursor baseline emission rates. The baseline emission rates for the $PM_{2.5}$ precursors should be set separate from the NO_X and SO_2 baseline emission rates and should be consistent with the methodology used to establish the $PM_{2.5}$ baseline emission rate.

GHG Baseline

PGE supports the Department's proposed methodology for calculating GHG baseline emission rates based on production rates used to calculate the netting basis of other combustion related pollutants or in the absence of combustion related pollutant netting basis, using actual GHG emissions during the baseline period. However, PGE requests that the Department also allow for the option to utilize actual GHG emissions during the baseline period for setting the baseline emission rate for sources that have combustion related pollutant netting basis. Additionally, sources that choose to calculate GHG baseline emission rate based on the same production rates used to calculate the netting basis of other combustion related pollutants that have previously gone through PSD for a combustion pollutant, should be allowed to set its GHG netting basis based on the production rates used in that PSD analysis.

To prevent a backlog in permit renewals, PGE suggests that the rule be revised so that the GHG baseline is established as part of the first permitting action for which an application is submitted after March 1, 2011. It makes more sense to require that new applications coming in after March 1, 2011 address GHG baseline than it is to require that existing and complete applications be revised and resubmitted.

Vacated Federal GHG Rules

PGE recommends the Department include a provision in the rule that allows for the revocation of the Oregon rules in the event the federal GHG PSD rules are vacated or stayed by either the courts or Congress. This would prevent a similar situation that Oregon faced when EPA withdrew its 112(g) rule package and Oregon was left with rules that depended on federal guidance that would not be developed because EPA pursued a different approach to regulating HAP sources. In order to avoid this outcome, DEQ should adopt regulations that specify that if EPA's GHG PSD program is delayed, vacated or withdrawn, the Oregon program will be similarly delayed. This would avoid Oregon businesses being left in the nonviable position of having to comply with GHG PSD while their out of state competitors did not.

Definition of "Greenhouse Gas"

PGE requests the Department revise the definition of "greenhouse gas" to include a provision that excludes biomass GHG emissions from the rule definition in the event the EPA removes biomass GHG emissions from regulation under federal PSD. After that time biomass CO_2 shall not be considered a regulated air pollutant to the maximum extent allowed by federal law.

Definition of "Major Source"

DEQ is proposing to revise the definition of "major source" to specify that PTE must include emission increases due to a new or modified source. PGE suggests the Department include emission decreases in the proposed revisions to the definition. Given Oregon's unique means of applying the term "major source" including future increases and excluding future decreases in emissions would force sources that were making net reductions to be considered major sources and be subject to requirements such as nonattainment new source review (which is triggered in Oregon based on whether a source is a major source or not). This is a substantial increase in stringency and should not be adopted without extensive discussion.

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

PGE strongly encourage DEQ to adopt the federal $PM_{2.5}$ SILs. No basis has been provided for why Oregon should exceed the federal requirements in relation to the SILs. By exceeding the federal requirements the Department places Oregon businesses in a noncompetitive position as compared to businesses in other states. This impacts small businesses as well as larger businesses as the rules would require even a small source seeking authority to emit only 10 tons/yr of $PM_{2.5}$ to perform complex modeling and to evaluate the results against the SILs. In order to avoid damage to the State's economy, we urge the Department to remain consistent with the federal SIL.

$PM_{2.5}$ Offsetting

The Department should clarify what will be required under the rules in regards to $PM_{2.5}$ precursor offsetting. The rules, as proposed, make it difficult to understand what is required in terms of precursor offsetting and what is allowed/required in the event of inter-pollutant trading. We request that the Department clarify these regulations so that they are more understandable.

Addition of Reporting Requirement

The Department is proposing to add a requirement (OAR 340-216-0040(4)) that sources promptly provide any new information regarding their sources or be subject to enforcement action. This addition to the rule seems out of place when the scope of this proposed rule making

is considered. PGE requests the Department withdraw this proposed regulation from this rulemaking until such time as it can be fully discussed publically.

Net Air Quality Benefit Requirement

When a source is locating in or near a nonattainment area in Oregon, they must demonstrate a net air quality benefit within that nonattainment area. PGE requests that DEQ remove the requirement that a source utilize complex modeling analysis to demonstrate the net air quality benefit and instead rely on emission reduction offsets that have occurred within the same airshed. This change would be consistent with other jurisdictions as well as with the way Oregon currently deals with ozone offsets. This change would allow for real improvements in nonattainment areas under circumstances that may not otherwise occur if computer modeling is required.

Please contact me if you have any questions about these comments.

Respectfully,

Ray Hendricks
Portland General Electric

ROSEBURG

November 23, 2010

BY EMAIL (AQFeb2011Rules@deq.state.or.us)
AND
FACSIMILE (503-229-5675)

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

Re: Comments on Proposed PM2.5 and Greenhouse Gas Rules

Dear Ms. Inahara:

Roseburg Forest Products (RFP) is a vertically integrated wood products manufacturing company with plants in Dillard, Riddle and Coquille, Oregon. RFP also has manufacturing facilities in California, Montana and throughout the southeast. Nationally, the company employs over 4,000 people. Products generated include dimensional lumber, panel products, engineered wood products and green power (generated from wood residuals resulting from our operations).

RFP is greatly concerned about how the Oregon Department of Environmental Quality (DEQ or Department) implements PM2.5 and greenhouse gas (GHG) regulation in Oregon. Although RFP has the capability of shifting production to other parts of the country, the company was founded in Oregon and we wish to be able to continue to manufacture in this state. Therefore, it is critical that our Oregon operations remain competitive. It is this focus on Oregon remaining competitive while being protective of our natural resources that underlies our comments.

RFP is particularly concerned regarding how DEQ establishes baseline emissions for PM2.5 and GHGs. The foundation of major and minor new source review in Oregon is the baseline emission rate and the related netting basis. As a company with Oregon facilities that both predate and postdate the 1977/78 baseline period established for the existing regulated air pollutants, we have a unique perspective on the Department's proposal. In the proposal, the Department outlined three possible alternative to establish PM2.5 baseline and four possible alternatives to establishing GHG baseline.

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RFP strongly encourages DEQ to adopt a modified Option 1 for establishing baseline for PM2.5. Option 1 is described, for PM2.5, as taking the proportionate share of the PM10 netting basis or, if (and only if) there is no PM10 netting basis, taking actual emissions during the baseline period. We believe that this approach is much better than Options 2 or 3 for establishing the PM2.5 baseline. However, we do not believe that facilities should only be limited to setting baseline equal to actual emissions during the baseline period to those situations where the facility has no PM10 netting basis. Three of RFP's Oregon facilities have PM10 netting basis, but one facility, because it was built after 1978, does not. For the three facilities that were built prior to 1978, there is the possibility of having PSELs in excess of the netting basis based on the use of existing capacity. It would not make sense to unilaterally curtail the PM2.5 baseline to match the PM10 netting basis where a source has relied on existing capacity. Where PM2.5 has only become a regulated air pollutant in 2010, and will not be regulated in Oregon under a permanent rule until 2011, we believe that it is appropriate to allow sources the flexibility to either take a proportional approach to setting the PM2.5 baseline or to take the actual emissions during the baseline period. We believe that this approach of allowing the source to decide which of these two methods to use in establishing the PM2.5 baseline emission rate is practical, consistent with the law and protective of the environment. Therefore, we urge DEQ to revise the proposed OAR 340-200-0020(13)(c)(B) to read "Is the PM2.5 fraction of the netting basis in effect on March 1, 2011 or the actual PM2.5 emissions during the baseline period." Once the baseline is frozen, the source will be locked into the chosen approach and the Department and the source will have certainty as to baseline value.

Similarly, RFP believes that the Department should adopt Option 1 for GHGs, but allow sources the flexibility to choose between a proportional approach and actual emissions during the baseline period. This optionality allows the source to make an informed decision based on how the plant has been operated during the time period between when the netting basis was established for other combustion pollutants and when GHGs became regulated under the Oregon program. This optionality is critical because in some situations the difference between the netting basis and the conventional combustion pollutant PSEL might be under the significant emission rate. However, the proportionate level of greenhouse gases equating to the difference between the netting basis and the PSEL could force a source into GHG PSD. We do not believe that allowing the source to make a one-time election as to whether to utilize actual emissions or to calculate baseline proportionate to combustion emissions will undermine the stringency of the Oregon program. Under the federal program a source can choose a different baseline period for different pollutants and there need not be any relationship or proportionality maintained. Similarly, under the federal program a source can choose different baseline periods even for the same pollutant each time that it evaluates a different project. By allowing the source to choose

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between the approach to baseline and then lock that number in as part of the baseline freeze, the Oregon program will be at least as stringent, if not more so, than the federal program.

RFP wishes to voice its opposition to DEQ's proposed Option 4 whereby it would adopt the federal PSD regulations for greenhouse gases. While RFP recognizes that there is the significant likelihood that it would face less regulation of GHGs under the federal program because of the absence of any requirement under the federal program to aggregate emissions increases between separate projects, we also recognize how confusing it would be to try and rely on one program for GHGs and another regulatory program for all other pollutants. RFP has facilities in many states where the federal PSD program applies. The federal program is far more complex and much less transparent to source, agency and public alike. We prefer the clarity of having an established PSEL and knowing that so long as emissions are retained below that bright line limit, PSD is not an issue. Therefore, we support the Department applying the Oregon PSD program to all regulated air pollutants, including GHGs.

RFP also strongly encourages the Department to include a provision that CO2 emissions from biomass combustion are not considered GHGs. RFP recognizes that EPA has not reached a final conclusion as to the regulatory status of biomass derived CO2. However, by including such a provision in the Oregon rules and staying that provision until EPA issues its determination in 2011, Oregon sends a powerful message to EPA while also ensuring that as soon as EPA acts, the Oregon program will be revised. As Governor Kulongoski has repeatedly stated, biomass is key to Oregon's economic future as well as to reducing greenhouse gas emissions. RFP avoids the use of substantial amounts of fossil fuel annually through the combustion of renewable biomass. DEQ should adopt rules that ensure that as soon as possible, the regulations will reflect the preference for the burning of renewable biomass as opposed to non-renewable fossil fuel. Our suggested approach ensures that minimal future agency resources are needed to transition the regulations to recognizing the carbon neutral status of biomass. This appraoch also avoids the regulatory delays that could cause projects to move elsewhere rather than wait for an end to the uncertainty posed by Oregon's regulatory status.

We also request that the Department not include fugitive GHG emissions as part of Oregon's PSD program unless the source is in one of the designated source categories. The extent of fugitive GHG emissions is not fully understood at this time and so we do not believe that there is any basis for including fugitives in major source determinations unless federal law requires Oregon to do so. By including fugitive GHG emissions for all sources, DEQ is going far beyond what the federal law requires. We request that Oregon sources not be put at a disadvantage as compared to sources in other states and that DEQ not regulate fugitive GHG emissions from sources outside the designated source categories.

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We thank you for this opportunity to comment on the proposed rules and hope that the Department recommends adoption of regulations that preserve the Oregon new source review approach while also not disadvantaging Oregon sources as compared to those in other states.

Sincerely,

Lisa Becherer
ROSEBURG FOREST PRODUCTS

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Commenter No. 17

Newsprint Co., LLC

1301 Wynooski Street
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Telephone: 503-538-2151
November 24, 2010

BY EMAIL (AQFeb2011Rules@deq.state.or.us)

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

Re: Comments on the Proposed Particulate Matter 2.5μ ($PM_{2.5}$) and Greenhouse Gas (GHG) Regulations

The SP Newsprint Co. is a member of the Forest Stewardship Council, the Sustainable Forestry Initiative and the Program for the Endorsement of Forest Certification. Our Newberg, mill produces paper made out of 100% recycled material. We care about protecting human health, natural resources and the environment and are pleased to work with DEQ on protecting the environment.

In the $PM_{2.5}$/GHG regulatory proposal, the Department has indicated that it is considering adopting the federal PSD rules for greenhouse gases rather than keeping the GHG regulation consistent with the regulation of other air pollutants. SP Newsprint does not support this idea and would prefer to have GHGs regulated in a consistent manner with other air pollutants in this state. DEQ adoption of the federal PSD program for GHGs would lead to considerable confusion for industrial sources like us. Although the federal program seems potentially less stringent, the DEQ program is clear where the PSD threshold is concerned and this clarity is appreciated. Also, the cost of operating duel programs would put a strain the resources of the state which in these economic times is not welcome.

SP also opposes DEQ adopting the federal program for GHGs because of the penalties that it imposes on companies that choose to proactively reduce emissions. EPA has long acknowledged that its program disincents companies from making emission reductions early. This means that companies subject to the federal program typically defer emission reduction projects so that they know that they are available to offset emission reductions. Under the Oregon program there is not this same disincentive to early reductions and, as a result, companies have consistently not tried to hold back projects that improve air quality. We believe that this is another strong reason to apply the Oregon PSD program to GHGs.

SP makes the following comments on the proposed rules so that the Oregon PSD program can be applied consistently across all regulated air pollutants.

GHG Baseline Emission Rate (OAR 340-200-0020(13))

One of the most significant aspects of the rule proposal is the establishment of the mechanism for calculating baseline emissions for GHGs and $PM_{2.5}$. Because of the differences between $PM_{2.5}$ and GHGs, we present our comments separately.

$PM_{2.5}$ Baseline Emission Rate

SP suggests that the Department revise its proposed regulations to allow dual options for how a source calculates its $PM_{2.5}$ baseline emission rate. As proposed, the rules would require that a source take the proportionate share of its existing PM_{10} netting basis for $PM_{2.5}$. If the source has no PM_{10} netting basis, then it may take the actual $PM_{2.5}$ emissions from the $PM_{2.5}$ baseline period. We believe that a source should have the option of either taking the proportionate share of its PM_{10} netting basis or the actual $PM_{2.5}$ emissions from the baseline period. SP believes that it is important that the Department allow sources to make a one-time declaration as to which way they will set their $PM_{2.5}$ baseline and leave the choice as to whether to use a proportional methodology or an actual emissions methodology to the source.

$PM_{2.5}$ Precursor Baseline

We believe that the rules need to be revised to add provisions for the establishment of $PM_{2.5}$ precursor baseline. Under the rules, DEQ is, for the first time, regulating SO_2 and NOx as $PM_{2.5}$ precursors. If a major source increases its NOx PSEL by 40 tons/year or more over the baseline emission rate, it triggers not only PSD NOx and ozone, but also for $PM_{2.5}$. In a $PM_{2.5}$ nonattainment area, this would trigger the very onerous requirement for offsets. However, as proposed, the baseline period used for NOx would be 1977/78 even though the $PM_{2.5}$ baseline period could be as recent as 2010. For a source that was constructed after 1978, the NOx baseline would be "0" tons/year, assuming that it never went through PSD. As a result, for a post-1978 source, a modification could trigger PSD for $PM_{2.5}$ for NOx (which has a 0 ton/year netting basis), but not trigger PSD for $PM_{2.5}$ itself, which might have a 2010 netting basis. This strange outcome makes no sense. For NOx as $PM_{2.5}$ precursor, the methodology should be the same as the methodology for $PM_{2.5}$. This is the same way in which the federal PSD program addresses baseline for NOx as an ozone precursor as opposed to NO_2 as a criteria pollutant. The baseline period for ozone precursors can and often is distinct from the baseline period used to evaluate NO_2, the criteria pollutant. Therefore, SP strongly recommends that insofar as NOx and SO_2 serve as $PM_{2.5}$ precursors, there should be a separate netting basis established that is consistent with the $PM_{2.5}$ netting basis procedures.

GHG Baseline

SP suggests that the Department revise its proposed regulations to allow dual options for how a source calculates its GHG baseline emission rate. As proposed, the rules would require that a source calculate its combustion GHG emissions based on the same production rate used to calculate the netting basis for other combustion pollutants. If the source has no netting basis for combustion related pollutants, then it may take the actual GHG emissions from the GHG baseline period. For GHG process emissions, DEQ proposes to similarly require sources that can correlate their GHG emissions to a production parameter to set their GHG baseline emission rate based on that production rate. If GHG emissions are not related to the production parameters used to set the netting basis for other pollutants, then the source must set its GHG baseline emission rate based on actual emissions during the baseline

period.[1] We generally support the proposed approach. However, we believe that a source should have the option of either calculating baseline GHG emissions using production parameter or through the use of the actual GHG emissions from the baseline period.

SP also recommends that the rules be revised to clarify that if a source has gone through PSD for one combustion pollutant, it can set its GHG netting basis based on the production rates used in that PSD analysis. The Department's proposed approach makes no allowance for sources that have gone through PSD for one but not all pollutants. This is not an unusual circumstance with sources often going through PSD, and therefore resetting the netting basis, for one combustion pollutant while all the rest of the combustion pollutants do not go through PSD and so do not have a reset netting basis. This circumstance should be addressed in the rules by allowing sources to use the production rate commensurate with the pollutants that went through PSD if that has occurred. Otherwise, the GHG emissions would be completely out of synch with the most recent comprehensive review.

SP also requests that the rules be revised so that the GHG baseline is established as part of the first permitting action for which an application is submitted after March 1, 2011. By requiring sources that may be nearly complete with their permitting process to be the first ones to have to undergo the baseline establishment process, DEQ will contribute to the serious backlog in permit renewals. It is more prudent to require that new applications coming in after March 1, 2011 address GHG baseline than it is to require that existing and complete applications be revised and resubmitted.

Litigation Opt-Out

SP recommends that the Department include within its rules a provision stating that if the federal GHG PSD rules are vacated or stayed by the courts or Congress, then the Oregon rules will cease to be in effect. Several years ago Oregon got out in front of EPA and adopted 112(g) regulations based on federal proposals and prior to EPA finalizing its program. EPA then did an about face and withdrew its 112(g) rule package and pursued a different way of regulating HAP sources. For several years, until DEQ could allocate the time and staff budget to remove these rules, Oregon limped along with a lame duck rule that depended on federal guidance that would never be developed as EPA was no longer supporting the program. The same thing could occur with GHGs and new source review. DEQ is depending on EPA developing GHG PSD guidance relating to BACT and to maintaining the Clearinghouse such that GHG BACT determinations can be developed. If the courts or Congress delay or stop implementation of the GHG PSD program, the Oregon program would be left without critical components, much as occurred with the 112(g) program. In order to avoid this outcome, DEQ can adopt regulations that specify that if EPA's GHG PSD program is delayed, vacated or withdrawn, the Oregon program will be similarly delayed. This would avoid Oregon businesses being left in

[1] We note that for process emissions there is no option addressed for a source that has no netting basis for other pollutants. This seems to be a conceivable situation and so appears to be an oversight. By accepting SP's comment, the Department will be able to address this oversight as such a source would default to using actual emissions during the baseline period.

the nonviable position of having to comply with GHG PSD while their out of state competitors did not.

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

Consistent with our comment above, the baseline period for $PM_{2.5}$ precursors should be consistent with the baseline period for $PM_{2.5}$. Otherwise, sources will be routinely forced into PSEL review, PSD or nonattainment NSR for $PM_{2.5}$ precursors even though $PM_{2.5}$ does not trigger the same review. This does not make sense and would have a negative impact on Oregon businesses without a material environmental benefit.

Definition of "Federal Major Source" (OAR 340-200-0020(54))

SP is concerned that there are errors relating to the definition of "Federal Major Source" that would have profound impacts on the Oregon GHG PSD program. First, we note that the definition states that sources are Federal Major Sources for GHGs if they have the potential to emit more than 100,000 short tons of GHGs. This is not consistent with the federal rules in two key respects. First, the federal rules require that the 100,000 ton threshold apply on a CO_2e basis, a criterion that is not identified in the proposed rule making the Department's proposal far less stringent than the federal rules. Second, the Oregon rules fail to include the second criterion found in the federal program that the source also have the potential to emit 250 tons "non-CO_2e" of GHGs. In the preamble to the Tailoring Rule, EPA was quite clear about the dual nature of these two criteria, stating:

> "However, we further provide that in order for a source's GHG emissions to trigger PSD or title V requirements, the quantity of the GHGs must equal or exceed both the applicability thresholds established in this rulemaking on a CO2e basis and the statutory thresholds of 100 or 250 tpy on a mass basis." 75 Fed. Reg. 31513, 31518 (June 3, 2010)

We believe that both of these errors on DEQ's part were inadvertent given the repeated statements that DEQ wants to remain consistent with the requirements established in the Tailoring Rule. The definition of Federal Major Source should be revised to be clear that both criteria apply and that the 100,000 ton criterion is based on CO_2e.

Definition of "Greenhouse Gas" (OAR 340-200-0020(59))

SP requests that DEQ revise the proposed definition of "greenhouse gas" to exclude CO_2 emissions from biomass effective upon the date that EPA authorizes the removal of biomass GHG emissions from PSD consideration. EPA has promised to finalize its decision in 2011 on whether biomass related CO_2 emissions must be counted in determining PSD applicability. If EPA concludes that the CO_2 emissions from biomass should not be counted, then, consistent with Oregon's policy of promoting responsible utilization of biomass, the Oregon rules should automatically implement the EPA position. We believe that this result can be achieved by adding a provision

to the definition of greenhouse gas stating that CO_2 emissions from biomass are only regulated as a greenhouse gas until EPA issues a final determination as to CO_2 accounting for PSD applicability determinations. After that time biomass CO_2 shall not be considered a regulated air pollutant to the maximum extent allowed by federal law. Alternatively, DEQ could pass a regulation exempting CO_2 from the combustion of biomass from regulation as a GHG and stay that provision until such time that EPA concurs. This approach avoids the creation of a serious disincentive that would make Oregon business uncompetitive with businesses in other states.

Definition of "Major Source" (OAR 340-200-0020(70))

SP requests that DEQ revise the proposed revisions to the definition of "major source" to allow the inclusion of emissions decreases. DEQ is proposing to revise the definition of "major source" to specify that PTE must include emission increases due to a new or modified source. In this regard the DEQ rules are more stringent than the federal as the federal definition of "major source" does not take into account the emissions from a proposed project. While we recognize that in certain stages of evaluating whether a change is a major modification it may not be appropriate to include an evaluation of emission decreases, when evaluating whether a source will be a major source after modifications, it is absolutely necessary to include emission decreases. Given Oregon's unique means of applying the term "major source" including future increases and excluding future decreases in emissions would force sources that were making net reductions to be considered major sources and be subject to requirements such as nonattainment new source review (which is triggered in Oregon based on whether a source is a major source or not). This is a substantial increase in stringency and should not be adopted without extensive discussion.

Consistent with its comment above in relation to the definition of "Federal Major Source," SP also requests that the Department revise the language in OAR 340-200-0020(70)(b)(B) to be clear that in order to be a major source of GHGs, a source must have the potential to emit 250 tons per year or more of GHGs and 100,000 tons per year or more of GHGs CO_2e. Both criteria must apply under the Tailoring Rule and the Department has indicated its intent to be consistent with the Tailoring Rule. Therefore, this definition should be revised.

Inclusion of Fugitive "Greenhouse Gas" Emissions in Major Source, Federal Major Source and Major Modification Definitions (OAR 340-200-0020(54), (69) and (70))

SP requests that DEQ revise the definition of "major source" to exclude fugitive emissions from consideration except in relation to sources in one of the designated source categories. EPA's Tailoring Rule is clear that fugitive GHG emissions need only be considered in determining PSD and Title V applicability for sources within one of the designated source categories. Nonetheless, although DEQ has stated that it intends to be no more stringent than that Tailoring Rule requires, it is proposing that fugitive GHG emissions must be included for all sources when determining PSD or Title V applicability. We do not believe that such a significant deviation from the Tailoring Rule should be added to DEQ's regulations without a more open discussion and further debate. Such a variation is neither required by nor consistent with

federal law and so therefore there is no basis for including it in this expedited rulemaking.

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

SP believes that DEQ should establish $PM_{2.5}$ SILs consistent with the federal SILs. We understand that Oregon has previously adopted PM_{10} SILs that were more stringent than the federal SILs. However, EPA has also stated its intention in its October 2010 regulations to withdraw some or all of the PM_{10} standards over time. If Oregon sets a $PM_{2.5}$ SIL based on what it has done for PM_{10}, then it will be hampered in its ability to raise the SIL in the future, once PM_{10} regulation changes, based on fears of backsliding. Therefore, even if the $PM_{2.5}$ SIL ends up higher than the PM_{10} SIL, we strongly encourage DEQ to adopt the federal SILs. No basis has been provided for why Oregon should exceed the federal requirements in relation to the SILs. By exceeding the federal requirements the Department places Oregon businesses in a noncompetitive position as compared to businesses in other states. In order to avoid damage to the State's economy, we urge the Department to remain consistent with the federal requirements.

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

DEQ has an error in Table 1 in relation to the PM_{10} annual and 24-hour increments. The annual increment should be 4 $\mu g/m^3$ and the 24-hour increment should be 8 $\mu g/m^3$, rather than the annual increment being 48 $\mu g/m^3$.

$PM_{2.5}$ Offsetting

We urge the Department to clarify what is required under its rules in terms of $PM_{2.5}$ precursor offsetting. As proposed, SP finds it very difficult to understand what is required in terms of precursor offsetting and what is allowed/required in the event of inter-pollutant trading. We request that the Department clarify these regulations so that they are more understandable.

Addition of Reporting Requirement (OAR 340-216-0040(4))

SP is concerned regarding the proposed addition of a previously nonexistent requirement that sources promptly provide any new information regarding their sources or else face enforcement for failing to do so. SP does not see how this is related to the rest of the rulemaking. When the response at hearings was that certain changes to the rules could not be made because they were not within the scope of this rulemaking, the addition of OAR 340-216-0040(4) seems glaringly out of place. This rule is unprecedented in addition to being out of context. Therefore, SP requests that the Department withdraw this proposed regulation from the rulemaking until it can be fully discussed. If DEQ retains the provision, we request that similar language from the Title V rules be added so that it is clear that this requirement applies while the permit application is under review.

GHG PSD Applicability Prior to July 1, 2011 (OAR 340-224-0010(5))

SP requests that the Department revise its GHG PSD applicability provisions proposed for inclusion in OAR 340-224-0010(5). These provisions state that prior to July 1, 2011, a "new major stationary source for a regulated NSR pollutant" other than GHGs is subject to regulation for GHGs if it will have the potential to emit 75,000 tons/year or more of GHGs. Similarly, existing sources are subject to regulation for GHGs if they are major stationary sources for non GHG pollutant(s), there is an increase in a non-GHG pollutant regulated pollutant and GHGs will increase by 75,000 tons/year or more. We believe that what is written is not what is intended. Under Oregon law a major source is defined as a source that has the PTE any regulated air pollutant at the SER or more. As proposed, the Oregon rules would expose sources to PSD for GHGs before the federal rules would so require. We understand that this is not DEQ's intent. We believe that what was intended was to require new Federal Major Sources that also have a GHG PTE of 75,000 tons/year to have to undergo PSD for GHGs. Likewise, we believe that existing Federal Major Sources, that have a significant emissions increase of a non-GHG regulated air pollutant and a GHG emissions increase of 75,000 tons/year or more over the netting basis would be subject to PSD for GHGs. As proposed, the underlined elements are missing from the rule resulting in the Oregon proposed rule being far more stringent than the federal rules.

GHG PSD Applicability After July 1, 2011 (OAR 340-224-0010(6))

SP requests that the Department revise its GHG PSD applicability provisions proposed for inclusion in OAR 340-224-0010(6). These provisions state that on or after July 1, 2011, an existing source is subject to regulation for GHGs if it makes a physical change or change in method of operation that will result in an emissions increase of 75,000 tons/year of GHGs. However, this proposed rule language makes no recognition of the Oregon program and the requirement that the source have a major modification, i.e., that the source request a GHG PSEL that exceeds that GHG netting basis by 75,000 tons/year or more. As proposed, OAR 340-224-0010(6) would require that sources increasing GHGs by 75,000 tons/year or more undergo PSD even if the ultimate emission rate would not exceed the netting basis by that amount. We do not believe that this was DEQ's intent. We believe that what was intended was to require existing Federal Major Sources to undergo PSD for GHGs only if they request a GHG emissions increase of 75,000 tons/year or more over the GHG netting basis. As proposed, the rule requires the source to be regulated even if the ultimate GHG PSEL requested does not exceed the netting basis by an SER or more. We suggest that the rule be changed to remove this possibility.

Net Air Quality Benefit Requirement (OAR 340-225-0090)

The proposed rules address in several locations the requirement to demonstrate a net air quality benefit within nonattainment areas. SP is supportive of the idea that sources wanting to locate in or near a nonattainment area must provide a net air quality benefit. However, SP is very concerned with the process that the Oregon rules impose for establishing that a net air quality benefit has been achieved for pollutants other than ozone. In other jurisdictions, the applicant provides bona fide offsets from emission reductions that have occurred within the same airshed. This seems reasonable and is consistent with how Oregon addresses ozone offsets. However, for non-ozone pollutants, the Oregon rules require a complex modeling

analysis of the impacts of the reduction as opposed to the source. As a result, sources can be blocked from relying on reductions generated in the heart of a nonattainment area to offset emissions that occur on the fringe or even outside of the nonattainment area simply because the range of influence does not precisely overlap. This is counterproductive and results in less air quality improvement. Because the concept of net air quality benefit is so intertwined with the $PM_{2.5}$ regulations, we urge DEQ to remove the modeling requirement and allow sources to demonstrate net air quality benefit through the use of offsets generated in the same nonattainment area as the source that proposes to increase emissions (i.e., treat ozone and non-ozone net air quality benefit demonstrations the same).

$PM_{2.5}$ Precursor $PM_{2.5}$ Air Quality Analysis

On OAR 340-224-0070(2)(a), DEQ proposes to require that where a federal major source or a major modification at a federal major source results in an increase of $PM_{2.5}$ precursors of an SER or more, the source must provide an analysis of $PM_{2.5}$ impacts. However, there is no basis for an individual source to model indirect $PM_{2.5}$ emissions. Therefore, the rule should be revised to state that the source must provide an analysis of "direct" $PM_{2.5}$ air quality impacts.

AQRV Analysis Guidance

A key impact of the regulation of $PM_{2.5}$ will be the increased need to evaluate AQRVs. Therefore, as part of this GHG/$PM_{2.5}$ rulemaking, we encourage the Department to update the date reference for the definition of "FLAG" in OAR 340-225-0020(6) to reference the new version published in the October 27, 2010 Federal Register. 75 Fed. Reg. 66125 (Oct. 27, 2010).

Thank you for the opportunity to comment.

Sincerely

Scott Conant
Lean and HR Manager

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Commenter No. 18

INAHARAJH

From: Martha Moore [martha@tw-enviro.com]
Sent: Wednesday, November 24, 2010 3:16 PM
To: AQFeb2011Rules
Subject: New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates

Dear DEQ Staff and Concerned Participants:

I am submitting a comment on the issue of whether DEQ should use the same New Source Review (NSR)/Prevention of Significant Deterioration (PSD) process for the greenhouse gas pollutants as currently used for all other pollutants in Oregon, or should adopt the federal NSR/PSD methods. I strongly urge the continued use of the Oregon NSR/PSD methods for all pollutants regulated in the future, and particularly for the greenhouse gas pollutants.

I have worked assisting businesses in numerous states with air permitting over the past 20 years. I have particularly worked with many small and family-owned businesses over that same time period. Although many of the small businesses I have worked with have not been subject to NSR/PSD, I believe that will change in the future as the thresholds that trigger NSR/PSD permitting are lowered (this intent seems fairly clear in the preamble to the federal Tailoring Rules for Greenhouse Gases). The Oregon NSR/PSD regulations are in some ways more stringent than the federal regulations and in some ways more lenient. The Oregon program does provide an incentive for businesses to reduce emissions and not continue the operation of outdated equipment simply to maintain an emissions base. However, the true hallmark of the Oregon program from my perspective is that the program is more comprehensible, less convoluted, and more predictable than the federal program. As these programs begin to affect smaller businesses, the adverse effects will be reduced if the regulations are comprehensible and predictable.

I strongly urge the continued use of the Oregon approach to NSR/PSD, and if possible, some outreach to smaller businesses likely to be affected by these regulations in the future. Most of the potentially affected smaller businesses are completely unaware that this major regulatory program may affect them.

Thank you for the opportunity to comment.

Martha Moore, P.E.

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Weyerhaeuser

November 24, 2010

By Email (Inahara.Jill@deq.state.or.us)

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

RE: Comments on the Proposed PM $_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

Weyerhaeuser Company has long been a strong proponent of cost effective air regulations in Oregon that both result in benefits to the environment while also providing for jobs in the Oregon communities in which we do business. Given this we are very supportive of the November 24, 2010 comments submitted by Associated Oregon Industries (AOI) to the Oregon Department of Environmental Quality (DEQ) concerning the PM $_{2.5}$ and greenhouse gas rule revisions.

We believe the comments submitted by AOI are consistent with our views of how best to regulate PM $_{2.5}$ and greenhouse gases. As such we urge the Environmental Quality Commission to adopt these suggested comments from AOI.

In addition, there is one point in particular in the AOI comments that we wish to again emphasize. The longstanding Oregon Plant Site Emission Limit (PSEL)/New Source Review (NSR) program is valuable and worthy of mention relative to these particular rule revisions.

Oregon has excluded changes from PSD when these changes 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 a company's potential for future growth. In addition; by way of the Oregon PSEL/NSR program and its Type 1 through Type 4 Notice of Construction thresholds, the program provides sources with an understandable and therefore manageable means by which to compliantly address applicable changes at a source and with the added benefit of often remaining out of PSD or NSR. Clearly this is advantageous to both the air shed and the sources that reside there.

Therefore we strongly urge the Environmental Quality Commission to allow PM $_{2.5}$ and greenhouse gases to be managed by way of the Oregon PSEL/NSR program. Failing to do so arguably undermines the integrity of this valuable program and presents the opportunity for significant compliance confusion both within the regulated community and Oregon DEQ.

As always we appreciate the opportunity to respectfully submit these comments to you.

Sincerely,

Dale F. Wonn

Environmental Manager
Weyerhaeuser NR Company

c: Jack Carter / Weyerhaeuser NR Company / Environmental Manager
John Ledger / AOI / Vice President

MICROCHIP

December 13, 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

RE: Comments on Re-Opened Proposed $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara,

I am the Environmental, Health and Safety Manager for Microchip Technology Inc. I would like to provide additional comments on the proposed $PM_{2.5}$ and Greenhouse Gas (GHG) Regulations for Oregon.

Microchip is a semiconductor manufacturing company with a facility in Gresham, OR. The Gresham facility was purchased in August 2002. Microchip currently has over 450 employees working in Oregon. Our business is growing. We have hired over 100 new employees in 2010, and will have over 700 employees when our facility is at full build out. We are committed to our employees and our community. Microchip is one of the only semiconductor manufacturers to not lay off any employees during the recession. In July 2006 Microchip received an Oregon Green Permit which is awarded by Oregon DEQ only to facilities that achieve superior environmental performance. Microchip also engages in local procurement of goods and services and, through its employees, participates in civic activities like FIRST Robotics, the City of Gresham Chamber of Commerce and the Mount Hood Community College Foundation.

Microchip made comments during the first comment period for these proposed regulations. I would like to respond to the two questions raised in the re-opening of the proposed $PM_{2.5}$ and Greenhouse Gas Regulations.

Question 1: Should sources be allowed to choose between existing netting basis or highest actual emissions in the last 10 years for determining a netting basis for PM2.5 and GHG?

Microchip would encourage DEQ to adopt regulations that treat GHGs in a way that is consistent with how other regulated air pollutants are treated. As Microchip is increasing production we have been very proactive in reducing air emissions including GHG emissions with point of use abatement. Fifteen abatement tools have been installed solely for greenhouse gas abatement in the last four years in anticipation of the new greenhouse gas regulations. This has significantly

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reduced our emissions prior to the GHG program coming on-line. The EPA PSD program has disincentives for making early emission reductions. Therefore, Microchip would agree with DEQ that Option 1 for determining a GHG baseline makes the most sense to both Microchip and the semiconductor industry, which has both fuel combustion and production parameters for GHG emissions.

Question 2: Should a source's Potential to Emit (PTE) be used to establish baseline emission rate or NSR/PSD approved Plant Site Emission Limits (PSEL)?

The PSEL should be used to establish a baseline emission rate. The PSEL would change when new air permits are issued and would be a more realistic emission rate for the semiconductor industry than the PTE. The semiconductor industry is very capital intensive. The industry is also very cyclical. Companies buy new equipment and increase production as the demand requires. It takes much longer for a semiconductor facility to reach full Potential to Emit than facilities from other industries. It could be ten to twenty years before a facility is fully built out.

Microchip appreciates DEQ's willing to support industry in Oregon and your willingness to understand the issues facing individual industries when changing environmental regulations. This is important for Oregon's continued economic growth.

Microchip strongly supports the comments submitted by the Associated Oregon Industries (AOI). We would urge that the Environmental Quality Commission adopt these suggestions.

Thank you for the opportunity to comment.

Sincerely,

Mari Chesser

Mari Chesser
Environmental, Health and Safety Manager
503.669.5503

INAHARA Jill

From: Thane Jennings [Thane.Jennings@calpine.com]
Sent: Friday, December 17, 2010 9:48 AM
To: AQFeb2011Rules
Subject: PM2.5 Baseline & GHG Baseline

We would prefer that the baseline values for new pollutants (PM2.5 & GHG) be set in proportion to pollutants that have already gone through the PSD process. So if the PM10 netting basis was set at 200 tons based on 8,760 hours of operation at 100% firing with 200 starts the PM2.5 basis would be set at 200 tons also. The same process could be used for GHGs, the amount of GHGs could be easily calculated for combustion sources using ODEQ approved emission factors and the fuel usage used to set the netting baseline. For example if the original PSD analysis used 8,760 hours at max firing rate, the CH4 baseline could be calculated in the following way.

8,760 hrs x 4,000 MMbtu/hr x 0.001 kg CH4/MMbtu x 0.001 metric ton/Kg CH4 = 35 tons CH4

Thank you for your consideration.

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December 22, 2010

BY EMAIL (Inahara.Jill@deq.state.or.us; AQFeb2011Rules@deq.state.or.us)

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

Subject: Comments on Re-Opened Proposed $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

ATI Wah Chang and ATI Albany Operations (formerly Oremet) located in Albany Oregon, are one of the world's largest manufacturers of specialty metals and chemicals, used in energy production, chemical and mineral processing, aerospace, medical, research and consumer products, employing over 1,300 union and administrative employees. We appreciate this opportunity to comment on the re-opened proposed rules that would add $PM_{2.5}$ and greenhouse gas (GHG) requirements to the Department's regulations.

ATI Wah Chang and ATI Albany Operations would like to recommend the following comments on the re-opened proposed rule questions:

1) **Should sources be allowed to choose between existing netting basis or highest actual emissions in the last 10 years for determining a netting basis for PM2.5 and GHG?** ATI Wah Chang and ATI Albany Operations prefer the use of the existing netting basis (Option 1), as stated in previous comments, because this is consistent with the existing Oregon PSEL program, would be more easily adopted by existing permit holders, and does not penalize

sources for reduced production levels over the last several years due to the economic recession. Additionally, if the last 10 years were used for determining a netting basis for PM2.5 and GHG this would cause us to lose a significant portion of the flexibility in our existing permit PSEL's that are needed to respond to the cyclic nature of the specialty metals market, as well as the potential volatility in utility costs. However, ATI Wah Chang and ATI Albany Operations would support allowing sources to have a *choice* between the existing netting basis and highest actual emissions in the last 10 years.

2) **Should a source's Potential to Emit (PTE) be used to establish baseline emission rate or NSR/PSD approved Plant Site Emission Limit (PSEL)?** ATI Wah Chang and ATI Albany Operations believe that the current rules should continue to be used to establish PSEL's, for new and modified sources, based on the source's PTE and suggest that this does *not* 'inflate the netting basis'. A new process is designed to account for the possibility of operating at its maximum capacity based upon forecasts of potential market demand. This provides built-in flexibility in production and consequently the PSEL for normal or abnormal market fluctuations. Additionally, the potential for inflated baselines was addressed by a DEQ rule change in 2007 that removed much of the unassigned emissions remaining from the '77-78 baselines. Furthermore, at the time of permit renewal (every 5 years for our Title V and APCD sources), the permit writer and facility representatives review emission factors, equipment changes since baseline, hours of operation, actual emissions and other PSEL related information in order to make appropriate changes so that the renewed permit reflects actual facility operations at that time, thereby reducing the potential for inflated baselines.

Finally, due to the importance of this rulemaking to ATI Wah Chang, ATI Albany Operations and other industry in Oregon, we request that if the final proposed rule language is substantially different from what was originally proposed in October (and after this re-opened comment period), that the final rule language be put back out for public notice and a subsequent comment period.

Sincerely,

Michael Kelly for

Lee Weber, Director
Environmental Services

Commenter No. 6

Dyno Nobel Americas

DYNO
Dyno Nobel

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

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

DYNO NOBEL INC.
St. Helens Plant
63149 Columbia River Hwy
Deer Island, Oregon
97054 USA
Telephone: 503-397-2225
Fax: 503-397-7551
www.dynonobel.com

12/22/2010

RE: Comments on Proposed $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

Dyno Nobel Inc. - St. Helens Plant is a manufacturer and supplier of ammonia, urea, urea ammonium nitrate solution, and carbon dioxide, and as such is subject to the impending regulation of greenhouse gases. Pursuant to the Prevention of Significant Deterioration and Greenhouse Gas Tailoring Rule, the facility will be required to apply for a Title V Operating Permit in July of 2012 due to the level of Greenhouse Gases (GHG) emitted by the facility. We appreciate the opportunity to comment on the proposed rules, as the addition of both $PM_{2.5}$ and GHG regulations have the potential to significantly affect the ability of the facility to operate in a cost competitive manner.

Of the options originally listed on the Oregon Department of Environmental Quality's webpage for New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and other Permitting Rule Updates, the Dyno Nobel St. Helens plant preferred proposed Option 4 for GHGs and proposed Option 1 for $PM_{2.5}$. Following the initial comment period, ODEQ re-opened the comment period in order to seek additional comments on specific issues raised by commenters during the initial public comment period. The issue that is of greatest concern to Dyno Nobel is the determination of a netting basis for GHGs.

During the initial comment period the facility preferred the adoption of the Federal Netting Method for GHG Emissions (Option 4) because it did not place the facility at a competitive disadvantage when compared to other ammonia plants in other parts of the country. Under the federal rule other ammonia plants have the opportunity to increase their production by the full Significant Emission Rate (SER) without being penalized for production increases that occurred more than ten years ago. If the St. Helens facility is required to set the netting basis proportional to the netting basis in effect on 3/1/2011, the facility would be at a competitive disadvantage because production increases that occurred over ten years ago would reduce the ability of

DYNO
Dyno Nobel

the plant to further expand the plant's production. If the facility could choose between their existing netting basis or highest actual emissions in the last 10 years for determining a netting basis for PM2.5 and GHG, it would provide a more equitable compromise between the federal and state requirements.

The intent of the Oregon Prevention of Significant Deterioration (PSD) program is to create an incentive for reducing plant wide emissions. Since its inception, the Oregon PSD rule has provided Oregon businesses the flexibility to make changes in their process that allow them to increase production by reducing emissions elsewhere in their facility. The policy of Plant Site Emission Limits creates a positive program that benefits both Oregon businesses and the surrounding air shed by limiting the amount of pollutants to a fixed baseline year. Under the federal program a ten year look-back allows businesses to make incremental changes that can increase the amount of pollutants above the Significant Emission Rate when compared to a time period that spans more than ten years prior.

Though the Oregon program provides flexibility to Oregon businesses, it fixes the amount of pollution to a predetermined baseline period. In this way Oregon businesses are held to a more stringent standard in exchange for greater flexibility under the Plant Site Emission Limit policy. The issue with maintaining the 1977/78 baseline period is that Oregon businesses have not had an incentive for reducing greenhouse gas emissions until the present. As such, production increases in the 1980's could limit Oregon businesses, whereas they would not even be considered under the federal program. In order to remain contemporary and fair when compared with the rest of the country, sources should be allowed to choose between their existing netting basis or the highest actual emissions in the last 10 years for determining a netting basis for GHGs. Though businesses would be allowed to utilize the Plant Site Emission policy for greater flexibility, the chosen baseline period would remain fixed, thereby maintaining equivalency with the federal program.

The St. Helens facility provides 60 family wage jobs in Deer Island, Oregon and is one of the few manufacturing facilities that continues to provide jobs in a county that faces an 11.8% unemployment rate. Maintaining a cost competitive atmosphere, while continuing to protect Oregon's air shed is an important goal for the State of Oregon as well as for the Dyno Nobel St. Helens facility. Should you have any questions regarding these comments, please call me at 503-397-7502. Thank you for the opportunity to comment.

Regards,

Alicia Little
Environmental Coordinator
Phone: +1 503 397 7502
e-mail: alicia.little@am.dynonobel.com

Commenter No. 10

KNIFE RIVER
MATERIALS
AN MDU RESOURCES COMPANY
Southern Oregon Division
OR CCB #56603 - CA CSLB #567735

December 23, 2010

Jill Inahara
DEQ, Air Quality
811 S.W. 6th Ave.,
Portland, Oregon 97204

Re: Re-Opened Comments on Proposed Greenhouse Gas and Particulate Pollution Rules to Align with Federal Regulations

Dear Ms. Inahara:

This letter is written in response to the above referenced additional comments. These additional are in regards to the following two specific DEQ questions:

Should sources be allowed to choose between existing netting basis or highest actual emissions in the last 10 years for determining a netting basis for PM2.5 and GHG?

Yes. Changing this exisiting requirement is not needed to comply with federal regulations. It would only be changed to make the program more stringent.

Should a source's Potential to Emit (PTE) be used to establish baseline emission rate or NSR/PSD approved Plant Site Emission Limit (PSEL).

The current rules should be maintained that rely on the PTE being used to establish a baseline emission rate. (i.e.: "... using a new source's baseline emission rate equal to its PTE if the source was permitted to construct during the baseline period but had not started operating during that time......"). Many business are cyclical during the year (i.e. seasonal) and also cyclical over a multi year period. It is not reasonable to expect that upon completion maximum production rates will occur immediately. It is not reasonable to pose additional financial risk to owners by limiting production of invested and constructed additional capacity. Sound economic analysis will require that the owner know in advance of any regulatory production restraints prior to construction.

Both of these additional questions are illustrative of my earlier comments that the proposed rule changes go beyond what is needed to comply with federal regulations, as they impose more stringent regulations.

From my earlier letter: Contrary to the DEQ News Release on the above referenced matter the proposed amendments go beyond what is required to "...update state regulations for fine particle pollution and greenhouse gases in order to align them with new federal regulations". Also contrary to the DEQ News Release that "....the amendment will not affect the stringency of Oregon's air quality permitting program..." the amendment will affect the stringency of its program.

Any amendments to the DEQ program should bring the DEQ program closer to EPA's Regulations. For instance DEQ's use of a fixed baseline instead of the EPA's netting basis to compute Significant Emission Rate should not be allowed to continue. DEQ needs to revise it's Prevention of Significant Deterioration program rules to align it with EPA's regulations.

There is no reasonable explanation for the DEQ to continue to diverge from the EPA by rewriting the rules. Allowing this to continue increases the costs and complexity of the program, without any defined benefits.

Sincerely,

Knife River Materials,

Thomas S. Gruszczenski, PE
Aggregate Resource Manager

INAHARA Jill

From: Mitch Karp [mkarp@rsgfp.com]
Sent: Thursday, December 30, 2010 3:28 PM
To: AQFeb2011Rules
Subject: Greenhouse Gases

In the age of problems I would say this
Is just a lot I mean a real lot
Of government contrived silliness

Mitchel Karp
RSG Forest Products

Commenter No. 22

INAHARA Jill

From: Mitch Jorgensen [mjj@molalla.net]
Sent: Thursday, December 30, 2010 3:43 PM
To: AQFeb2011Rules
Subject: Comment on proposed rulemaking

This comment is in reference to PM25 and GHG as regulated pollutants.

The designation on Greenhouse Gases and Global Warming is based on flawed scientific research and conclusions. Despite what the EPA is asking or requiring the State of Oregon (DEQ and all other agencies) to do, I call upon you to step forward on behalf of the citizens of this State and put a stop to all of this.
This legislation and/or rulemaking will do nothing but to significantly raise costs to business and thereby to the consumer, and create more bureaucracy and inefficiency with the DEQ, all because of fear and false research.
This madness must stop. I call upon the DEQ to cease all further efforts supporting and establishing Greenhouse Gas and Global Warming regulation, rulings and enforcement.

Thank you.

Mitch Jorgensen, President

NRMCA QCT/CCT #44362
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Commenter No. 1

Associated Oregon Industries

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January 14, 2011

BY EMAIL (AQFeb2011Rules@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 $PM_{2.5}$ and Greenhouse Gas 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 rule and is the state affiliate of the National Manufactures Association.

We appreciate this opportunity to comment on the re-noticed rules that would add $PM_{2.5}$ and greenhouse gas (GHG) requirements to the Department's regulations. AOI has enjoyed a longstanding cooperative and productive working relationship with the Department and we offer these comments in that spirit.

Adoption of State v. Federal Program

There is no air program that affects more industrial sources in the state than the PSEL/new source review program. This lies at the heart of the Oregon air permitting scheme and the rules adopted as part of this rulemaking package will constitute the foundation of air permitting for years to come.

AOI has always supported the Department adopting and implementing air permitting regulations as opposed to allowing federal implementation. Where rules different from the federal regulations made more sense for Oregon, we

have supported those rules. In the $PM_{2.5}$/GHG regulatory proposal, the Department previously indicated that it was considering adopting the federal PSD rules (i.e., 40 CFR 52.21) for GHGs rather than keeping GHG regulation consistent with other regulated air pollutants. AOI believes that this would be bad for Oregon and therefore encourages the Department to adopt regulations that treat GHGs consistent with how other regulated air pollutants are treated. The recent imposition of a GHG Federal Implementation Plan based on the Oregon PSD program is a strong endorsement by EPA of Oregon's program. AOI believes it would be counter to this federal action for DEQ to adopt 40 CFR 52.21 for GHGs. It appears from the revised language made available for comment in late December that the Department is no longer thinking of adopting the federal PSD program for GHGs. While we will say nothing more on this subject in this comment letter, we reiterate our prior comments to the extent this possibility is still under consideration.

With that in mind, AOI makes the following comments on the proposed rules.

GHG Baseline Emission Rate (OAR 340-200-0020(13))

One of the most significant aspects of the rule proposal is the establishment of the mechanism for calculating baseline emissions for GHGs. Under its initial proposal, DEQ suggested the use of a dual approach where some sources were required to calculate baseline based on either their existing parameters or their actual emissions during the baseline period. Now DEQ has proposed to revise that approach so that all sources are required to calculate GHG baseline using actual emissions during a consecutive 12 month period between 2000 and 2010.

AOI suggests that the Department revise its proposed regulations to allow dual options for how a source calculates its GHG baseline emission rate. We believe that a source should have the option of either calculating baseline GHG emissions using the proposed approach (i.e., 12 month actual emissions from 2000 through 2010) or based on the production parameters used to establish their 1978 baseline. This choice should be the source's choice to make so as to ensure that the source is not held to a time period that is not representative of normal operations.

If DEQ does not agree with this suggestion, we believe, at the very least, that it should address GHG baseline the same as it addresses baseline for every other pollutant. Specifically, at the very least we believe that DEQ should add the sentence "The Department may allow the use of a prior time period upon a determination that it is more representative of normal source operation" in relation to GHGs. This would treat GHGs consistently with other pollutants and recognize that for some sources there may not be a year between 2000 and 2010 that is representative of normal operations. If such a source can make the required demonstration to DEQ, then the source could rely on a year representative of normal source operations for establishing baseline.

AOI also recommends that the rules be revised to clarify that if a source has gone through PSD for at least one pollutant, it can set its GHG netting basis based on the production rates used in that PSD analysis. The Department's proposed approach makes no allowance for sources that have gone through PSD. Particularly where process emissions are involved, the failure to allow a source to emit GHGs at the same levels as the other pollutants that have gone through PSD places a tremendous limitation on that source. AOI believes that the GHG netting basis should be consistent with plant operation at the levels that went through PSD review. At the very least, DEQ should clarify that the use of capacity that existed at the time the source went through PSD, maintenance or nonattainment new source review will not trigger new source review.

AOI also requests that the rules be revised so that the GHG baseline is established as part of the first permitting action for which an application is submitted after May 1, 2011. By requiring sources that may be nearly complete with their permitting process to be the first ones to have to undergo the baseline establishment process, DEQ will contribute to the serious backlog in permit renewals. It is more prudent to require that new applications coming in after May 1, 2011 address GHG baseline than it is to require that existing and complete applications be revised and resubmitted.

$PM_{2.5}$ Netting Basis (OAR 340-200-0020(74))

Under the most recent proposal, DEQ outlines a program where no baseline would be established for $PM_{2.5}$ and instead there would just be netting basis based on the $PM_{2.5}$ fraction of the PM_{10} netting basis. AOI supports this approach to establishing the $PM_{2.5}$ netting basis so long as two components are explicitly addressed in the rules. First, is that the rules allow the Department to increase the $PM_{2.5}$ netting basis by up to 5 tons/yr to allow for sources that made changes in reliance on their PM_{10} netting basis. We support the provisions in the proposal that implement that approach and suggest that it be made clear that sources in that position will be entitled to this increase in netting basis. Second is that the sources utilizing existing capacity present in the baseline period be enabled to look to the equipment existing at the time that the $PM_{2.5}$ netting basis rules are adopted to make that existing equipment determination. This approach would not undermine the rules, but would, instead, allow a source to utilize capacity consistent with the concepts already present in the Department's rules. It would make no sense for that source to have to look to what equipment existed in 1978 in determining what existing capacity it could utilize without triggering major new source review.

Given the complexity of the regulation of $PM_{2.5}$ we also request that the Department revise its regulations to clarify that sources triggering BACT for a $PM_{2.5}$ precursor (e.g. NOx out of a boiler) do not necessarily trigger BACT for direct $PM_{2.5}$ coming out of an unrelated emission unit (e.g., a planer). Oregon's unique (and more stringent) approach to BACT pulls in all emission units that emit the pollutant in question and that was installed since the baseline period.

Due to Oregon's program being so different from the federal program in this regard, it is necessary to clarify that triggering BACT for a $PM_{2.5}$ precursor would not then trigger BACT for all direct $PM_{2.5}$ emission units, and vice versa.

Finally, we suggest that DEQ clarify the significant emission rates applicable for $PM_{2.5}$ in Medford. The rates identified are for $PM_{10}/PM_{2.5}$ without any indication as to whether that is direct $PM_{2.5}$, precursors or some combination of the two. Due to the different regulation of $PM_{2.5}$, we do not believe that the Medford significant emission rates should include $PM_{2.5}$ at all.

Definition of "Greenhouse Gas" (OAR 340-200-0020(59))

AOI requests that DEQ revise the proposed definition of "greenhouse gas" to exclude CO_2 emissions from biomass or other biogenic sources. On January 12, 2011, EPA announced that it would issue rules this year that would eliminate CO_2 resulting from biomass or biogenic material from consideration under either the PSD or Title V programs. We request that the Department clearly align itself with this position in the current rulemaking. The use of biomass is a viable means for Oregon to decrease our nation's dependence on imported fossil fuel and to decrease the "new" carbon introduced into the atmosphere. The Governor has voiced his strong support for the increased use of biomass. Consistent with these policy goals and EPA's clear expression of federal intent to remove biomass/biogenic CO_2 emissions from consideration under PSD and Title V, we request that DEQ similarly state in this rule that unless and until EPA changes its position, CO_2 from biomass and other biogenic sources is not considered for any purpose under the Oregon air program.

Definition of "Major Source" (OAR 340-200-0020(70))

AOI requests that DEQ revise the proposed revisions to the definition of "major source" to allow the inclusion of emissions decreases. DEQ is proposing to revise the definition of "major source" to specify that PTE must include emission increases due to a new or modified source. In this regard the DEQ rules are more stringent than the federal as the federal definition of "major source" does not take into account the emissions from a proposed project. While we recognize that in certain stages of evaluating whether a change is a major modification it may not be appropriate to include an evaluation of emission decreases, when evaluating whether a source will be a major source after modifications, it is absolutely necessary to include emission decreases. Given Oregon's unique means of applying the term "major source" including future increases and excluding future decreases in emissions would force sources that were making net reductions to be considered major sources and be subject to requirements such as nonattainment new source review (which is triggered in Oregon based on whether a source is a major source or

not). This is a substantial increase in stringency and should not be adopted without extensive discussion.

Consistent with its comment above in relation to the definition of "Federal Major Source," AOI also requests that the Department revise the language in OAR 340-200-0020(70)(b)(B) to be clear that in order to be a major source of GHGs, a source must have the potential to emit 250 tons per year or more of GHGs and 100,000 tons per year or more of GHGs CO_2e. Both criteria must apply under the Tailoring Rule and the Department has indicated its intent to be consistent with the Tailoring Rule. Therefore, this definition should be revised.

Inclusion of Fugitive "Greenhouse Gas" Emissions in Major Source, Federal Major Source and Major Modification Definitions (OAR 340-200-0020(54), (69) and (70))

AOI requests that DEQ revise the definition of "major source" to exclude fugitive emissions from consideration except in relation to sources in one of the designated source categories. EPA's Tailoring Rule is clear that fugitive GHG emissions need only be considered in determining PSD and Title V applicability for sources within one of the designated source categories. Nonetheless, although DEQ has stated that it intends to be no more stringent than that Tailoring Rule requires, it is proposing that fugitive GHG emissions must be included for all sources when determining PSD or Title V applicability. We do not believe that such a significant deviation from the Tailoring Rule should be added to DEQ's regulations without a more open discussion and further debate. Such a variation is neither required by nor consistent with federal law and so therefore there is no basis for including it in this expedited rulemaking.

AOI does not repeat all of the comments that it submitted in November 2010 as new language has not been proposed for many of those portions of the regulations. However, we wish to reiterate all of those comments and hope that they will be taken into account as the Department moves towards final rules.

Thank you for this opportunity to comment.

Sincerely,

John Ledger
Vice President

cc: Tom Wood; Stoel Rives, LLP
David Like; Hampton Affiliates

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Russell Strader
Environmental Manager

Boise Cascade

January 14, 2010

BY EMAIL to AQFeb2011Rules@deq.state.or.us
and Inahara.Jill@deq.state.or.us

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

Subject: Comments on Proposed $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

Boise Cascade Wood Products, L.L.C. (BC Wood Products), a wholly-owned subsidiary of Boise Cascade, L.L.C., currently operates eight wood products mills in Oregon. These mills and the associated administration offices currently employ approximately 1500 people in Oregon. Each of these mills operates in accordance with an Air Permit issued by Oregon Department of Environmental Quality (ODEQ) and will therefore be directly affected by the proposed $PM_{2.5}$ and Greenhouse Gas Regulations. On November 24, 2010, I submitted comments to the Proposed PM2.5 and Greenhouse Gas Regulations on behalf of BC Wood Products.

BC Wood Products is a member of Associated Oregon Industries (AOI) and supports comments to the re-noticed air regulations submitted by AOI in their January 14, 2011 letter to you. Specifically, BC Wood Products supports maintaining a PSEL/NSR regulation for $PM_{2.5}$ and GHGs that is consistent with Oregon's PSEL/NSR regulation for other pollutants. BC Wood Products does not support implementation of a federal-type NSR program for either $PM_{2.5}$ or GHGs if ODEQ is still considering that option. Our previous comments and AOI's comments provide support for our position.

BC Wood Products continues to support a dual option for calculating PM2.5 and GHG netting baselines as described in AOI's November 24 comments. A dual option does not unfairly penalize sources with small PM_{10} 1977/78 netting basis if the source would be eligible for a higher baseline based on 2000 to 2010 actual emissions. BC Wood Products believes facilities should be allowed an option for calculating GHG netting

baseline for similar reasons. While a dual option seems to be the most equitable method to establish baseline emissions, BC Wood Products agrees with AOI that ODEQ must, at a minimum, add language that allows the Department to accept another time period more representative of normal source operation in relation to GHGs as allowed for other pollutants.

BC Wood Products agrees with AOI that ODEQ's proposed method for establishing the netting basis for $PM_{2.5}$ as a fraction of PM_{10} is reasonable if the two components described in their comments are addressed in the rules.

BC Wood Products also requests that ODEQ revise its regulations to exclude CO2 emissions from biomass or other biogenic sources from the NSR and Title V program as announced by EPA on January 12, 2011. Biomass CO2 is considered carbon neutral and use of biomass fuels should be encouraged. BC Wood Products utilizes biomass as a major fuel source at many of our wood products plants.

Thank you for the opportunity to comment on these important regulations.

Sincerely,

Russell Strader

Cc John Ledger, AOI
Tom Woods, Stoel Rives
Jim Jackson, Boise, Inc.
Kathy Sperle, Boise Cascade, L.L.C.
Bart Barlow, Boise Cascade, L.L.C.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
AIR, WASTE AND TOXICS

January 14, 2010

Reply To
Attn Of: AWT-107

Ms. Jill Inahara
Program Operations
Washington Department of Ecology
811 SW 6th Avenue
Portland Oregon 97204

Re: EPA's Comments on the Proposed Revisions to Oregon Department of Environmental Quality's (ODEQ's) PM2.5/Greenhouse Gas Permitting Rules: Reopened and Posted on December 30, 2010

Dear Ms. Inahara:

Thank you for the opportunity to review and comment on ODEQ's proposed Division 200 rule revisions reopened and posted on December 30, 2010. Our comments on these revisions follow:

General Comments

In submitting these comments, EPA's review focused on the changes to regulations proposed in this rulemaking. Importantly, provisions of current regulations not open for comment in this rulemaking may affect the approvability of the regulation changes in this proposed rulemaking.

Please also note that these comments contain our current views based on a preliminary review of the proposed rule. These views should not be considered EPA's final position, which we will reach only through notice and comment rulemaking after the state has submitted a rule for our approval as a SIP revision.

OAR 340-200-0020(13): It is EPA's understanding that the new language for the definition of "baseline emission rate" is intended to accomplish four objectives:

(1) Establish that there will be no baseline emission rate for PM2.5;
(2) For the existing regulated pollutants, allow the baseline emission rate to be recalculated only for specific reasons;
(3) Specify when the baseline emission rate for GHG's will be established; and
(4) For GHG's, provide 5 years before the provisions limiting recalculation of baseline emissions apply.

It appears that the language may also be attempting to specify how baseline emissions for additional new regulated pollutants would be established, but we don't think that the language actually works to accomplish that objective.

We have two concerns about this revised definition. The first is the "frozen baseline" language. The language in old (c)(B) already establishes a list of the only reasons a baseline can be changed, so the text about freezing adds confusion. Section (c)(B) does not currently say it unfreezes the baseline and it makes it unclear who has the authority to unfreeze the baseline. We understand the desire to give companies a window in which to make changes and then cut off that opportunity. As seen below in our suggested revision to this definition, therefore, we proposed the language "5 years after an initial baseline has been established for a regulated pollutant." We are not wedded to the time period or the particular language, but we believe this format is clearer and accomplishes what we understand to be the goals.

The second concern has to do with the use of term "the Department." in the discussion of how changes are made to the baseline rate. We are concerned that specifying that "the Department determines" could be relied on by a source in an enforcement action to argue that the baseline cannot be recalculated based on, for example, a material mistake or inaccurate statements by a source, unless it was the Department that made the determination that there was a mistake or inaccurate statements. We have rewritten the conditions so that they don't refer to Department or EPA, which is the same format you used to address our comments about (i) originally.

Here is a suggested replacement for the current proposed definition of "baseline emission rate:"

(13) "Baseline Emissions 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.
(a) A baseline emission rate will be established only for regulated pollutants subject to OAR 340 division 224 as specified in the definition of regulated pollutant. A baseline emission rate will not be established for PM2.5.
(b) The baseline emission rate for greenhouse gases will be established for a source with the first permitting action involving a public notice after May 1, 2011.
(c) The baseline emission rate for a new pollutant added to the list of regulated pollutants will be established for a source with the first permitting action involving a public notice after the pollutant is added.
(d) After the first permit action for a source involving public comment after July 1, 2002, or five years after an initial baseline has been established for a regulated air pollutant, whichever is later, the baseline emission rate may only be recalculated if:

(A) A better emission factor is established for the baseline period;
(B) A currently operating emissions unit that was formerly thought to have negligible emissions is determined to have non-de minimis emissions and needs to be added to the baseline emission rate;
(C) The actual emissions are reset in accordance with the definition of actual emissions; or
(D) It is determined that a material mistake or an inaccurate statement was made in establishing the baseline emission rate.

OAR 340-200-0020(69): Under the definition of "Major Modification", we found the new language in subparagraph (d) confusing. Based on the new language in the definition of "actual emissions" we understand that Oregon wants to allow a source to either reset the netting basis or exclude a portion of the netting basis when determining whether a new proposed change would be a major modification. We recommend that this provision more clearly spell out how a major modification would be determined when the netting basis hasn't been reset (i.e., how you exclude a portion of the netting basis).

Again, thank you for the opportunity to comment. If you have any questions or concerns regarding this letter or would like to discuss these matters further, please contact Scott Hedges at (206)-553-0296.

Sincerely,

Keith Rose, Acting Manager
State and Tribal Air Programs Unit

Enclosures

c: Debra Suzuki, EPA Region 10
Scott Hedges, EPA Region 10
Julie Vergeront, EPA Region 10
Dave Bray, EPA Region 10
Katie McClintock, Region 10

Commenter No. 9

January 14, 2011

BY EMAIL (AQFeb2011Rules@deq.state.or.us)

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

Subject: Comments on Proposed $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

In November, Intel Corporation ("Intel") submitted comments on the Department's proposed $PM_{2.5}$ and greenhouse gas ("GHG") regulations. In December, the Department decided to renotice the draft regulations to enable additional discussion, requesting comment on two points. The Department subsequently made specific language available for the public to comment on. This letter is in response to the proposed rule language made available in late December 2010.

Background on Intel

Intel's Oregon operations form the company's largest and most comprehensive site in the world, a global center of semiconductor research and manufacturing and the anchor of Oregon's economy. Intel's capital investments in Oregon since first acquiring property in 1974 total approximately $18 billion and Oregon is poised for significant additional capital investment with the announcement of the construction of the new D1x facility. Already Intel is Oregon's largest private employer with approximately 15,000 employees in the state. Intel is the largest property taxpayer in Washington County with payments of approximately $30 million/year. As the company expands its Oregon operations, it will add to that employment and tax base and continue to enhance Oregon for years to come.

Given Intel's large existing presence in Oregon and its commitment to expand its Oregon operations, we care deeply about how the Department is proposing to amend its rules to address $PM_{2.5}$ and greenhouse gas (GHG). We appreciate this opportunity to comment on the proposed regulations so as to ensure that they benefit the environment while not posing undue obstacles for business.

Intel has a longstanding commitment to reducing GHG emissions in Oregon (and elsewhere around the globe). Intel's GHG emissions derive from two sources, combustion emissions and

process emissions (primarily PFC emissions). Intel has an established energy conservation program with the goal of reducing energy consumption, on a normalized basis, by 5 percent annually. This goal ensures that combustion derived GHG emissions are constantly decreasing at our Oregon campuses notwithstanding the tremendous growth in production that we have experienced. A similar story exists for process GHG emissions. Semiconductor manufacturing requires the use of PFCs which are regulated GHGs. Intel has made tremendous strides to reduce PFC emissions from its Oregon operations. The result has been that emissions, on a CO_2e basis, have dropped since 2000 from approximately 410,000 short tons per year to just over 125,000 short tons per year in 2009. This 70 percent decrease in GHG emissions occurred during a time that production at the Oregon facilities increased by approximately 300 percent. This translates to an approximately 90 percent decrease in GHG emissions per unit of production in Oregon. To accomplish this amazing feat, Intel has installed millions of dollars in controls at each manufacturing site in Oregon and has also engaged in chemical substitution to chemicals that were more amenable to control. Intel is continuing to invest tremendous time and money into GHG emission prevention and emission control. In preparing these comments we are mindful of what we have achieved at a time that most industries were not investing heavily to reduce GHG emissions and we hope that our comments are read in light of this strong and ongoing commitment to reduce GHG emissions.

Intel Recommends that DEQ Retain Its State New Source Review Program for All Pollutants

Intel supports the Department's proposal to retain its unique state new source review ("NSR") program for $PM_{2.5}$ and GHGs. DEQ had previously indicated that it was considering adopting the federal PSD rules (i.e., 40 CFR 52.21) for GHGs rather than keeping GHG regulation consistent with the means by which other regulated air pollutants are addressed in Oregon. The reopening notice appears to indicate that the Department recognizes the benefits to Oregon of maintaining our unique state NSR program for GHGs and/or $PM_{2.5}$. This approach is consistent with the Federal Implementation Plan proposed for Oregon for GHGs indicating that EPA sees the merit of maintaining a common state program for all pollutants. Intel continues to believe that it would be bad policy for Oregon to regulate GHGs and/or $PM_{2.5}$ differently from all other regulated air pollutants. Therefore, we reiterate our prior comment that the Department should implement the Oregon NSR program for all pollutants.

Intel Recommends that DEQ Not Penalize Sources That Emit Below Their Permitted Levels

Intel believes that the proposed rules appropriately allow a source to determine its baseline GHG emission rate based on the actual annual emission rate during any consecutive 12 month period between January 1, 2000 and December 31, 2010. Intel also supports the clarifications of the way that actual emissions are calculated for those sources or portions of sources that have been permitted, but did not commence normal operation, during the baseline period. However, Intel does not support the proposed language that would require resetting of actual emissions if the

source did not achieve its full emissions capacity within 10 years after commencing construction. This approach is bad public policy in that it encourages sources to emit at their maximum permitted level in order to preserve baseline. Avoiding this perverse incentive has been one of the hallmarks of the Oregon PSD program. Adding this new concept to the Oregon rules will undercut the beneficial aspect of Oregon's programs whereby sources are not incented to emit more than they otherwise need to. This also creates serious issues for sources that take a long time to complete construction as they will not have necessarily reached normal operations in enough time to establish a reasonable baseline emission rate. While we appreciate the opportunity to apply for an additional 5 year extension, we are concerned that in Intel's unique business model, this time may be inadequate. For these reasons, we suggest that DEQ remove the portions of the proposed definition of "actual emissions" that would require sources to reduce their baseline to match actual emissions.

We note that our proposed approach is consistent with the federal rules implementing Plantwide Emission Limits ("PALs"). Under the federal program, the component of a PAL for emission units that commence construction after the baseline period is set equal to the potential to emit of that unit. See, 40 CFR 52.21(aa)(6)(ii).

Intel Recommends that the Oregon Rules be Corrected to be Consistent with Federal Rules

DEQ's rules propose to add a major source threshold and significant emission rate for greenhouse gases to its rules. This is directly contrary to the federal approach where the greenhouse gas 75,000/100,000 ton criteria are incorporated into the rules as a component of the definition of "subject to regulation." This difference in approach is important as the EPA regulations impose dual criteria that are absent in the Oregon rules. Specifically, in order to be subject to PSD for GHGs under the federal program a source must exceed the 75,000/100,000 ton threshold on a global warming equivalent basis as well exceed the 100/250 ton threshold on an absolute basis. By taking a different approach from EPA for incorporating GHGs into the PSD and Title V programs, DEQ is imposing significantly different criteria from the rest of the country. DEQ has stated that its intent is to be consistent with the federal Tailoring Rule. The proposed approach is, however, not consistent with the federal program. We suggest that the Department revise its rules to be consistent with the federal Tailoring Rule.

Intel Recommends that DEQ Revise its Regulations to Clarify When BACT Applies

DEQ's rules currently state that equipment installed after the baseline period must undergo BACT. However, Intel believes that this regulation should be revised to recognize that equipment authorized to be installed in the baseline period should not be subject to BACT when it is constructed. That would place equipment installed without authorization during the baseline period in a better position than equipment permitted, but not yet installed, during the baseline period. Therefore, we suggest that OAR 340-224-0070(1) be revised as follows:

(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 authorized to be 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.

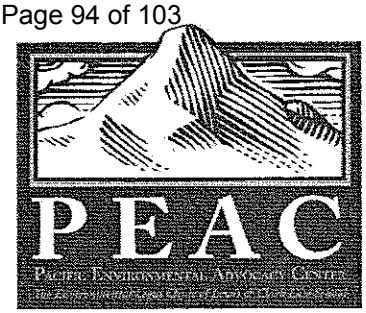
Intel appreciates this opportunity to comment and we hope that our suggestions will serve to improve Oregon's regulatory program.

Sincerely,

Scott Stewart

cc: Todd Rallison
Tom Wood

Commenter No. 12



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January 14, 2011

Jill Inahara
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(503) 229-5001
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Re: Proposed rulemaking regarding New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates

These are comments on behalf of the Northwest Environmental Defense Center (NEDC) concerning the proposal by the Oregon Department of Environmental Quality (DEQ) to issue new regulations concerning the Prevention of Significant Deterioration (PSD) for particulate matter less than 2.5 microns (PM2.5) and greenhouse gases (GHGs). NEDC previously submitted comments in this docket on November 24, 2010.

DEQ posed two specific questions to the commenting public when it reopened the comment period in this rulemaking on December 9, 2010:

- Should sources be allowed to choose between existing netting basis or highest actual emissions in the last 10 years for determining a netting basis for PM2.5 and GHG?

- Should a source's Potential to Emit (PTE) be used to establish baseline emission rate or NSR/PSD approved Plant Site Emission Limit (PSEL)?

DEQ posted new rulemaking language for comment on December 30, 2010, and extended the public comment period until January 14, 2011. Included in the revised rulemaking package was a document titled "Explanation of Revised Rule Language." That document provided six bullet points representing, in DEQ's view, "the most significant changes reflected in DEQ's revisions to the six definitions…" For ease of commenting, we are responding to the two specific questions posed in the public notice, and then addressing each of the six bullet points in DEQ's explanation document.

- **Should sources be allowed to choose between existing netting basis or highest actual emissions in the last 10 years for determining a netting basis for PM2.5 and GHG?**

Sources should not be allowed to choose between existing netting basis or highest actual emissions in the last 10 years for determining a netting basis for PM2.5 and GHG. As NEDC previously commented, either of these approaches would fail to adequately match the baseline period and baseline concentrations. Allowing a choice between these two inadequate options makes the regulations even less protective of air quality, and encourages gamesmanship among sources. An individual source's "baseline emission rate" must be linked to the "baseline concentration" year for the PSD program to serve its essential function – to ensure that any new sources of pollution in areas that already attain the national ambient air quality standards (NAAQS) will not cause or contribute to a violation of the NAAQS, and will not consume too much of the "clean air" left in the area in order to allow continued economic growth.

The "baseline concentration" is established through monitoring that serves to demonstrate the existing air quality in an area, among other things. The monitoring results simply tell us the status of the area (i.e., the "baseline concentration") for the period in time when the monitoring was conducted. The goal is to take a snapshot of air quality, and then use that snapshot to make decisions about when, where and how new sources of air pollution can be added to the area without causing a violation of the NAAQS or consuming too much of the "clean air" left in the area. When a new facility is permitted, or a major modification is undertaken at an existing facility, ambient air quality monitoring and a modeling demonstration must be made that the new facility will not violate NAAQS or increment. If this demonstration is made against a backdrop of background concentrations that are wholly disconnected from the permitted levels of pollution in the airshed, not only is air quality not protected, but older and more polluting facilities are favored over newer and cleaner facilities. Because the viability of all future sources of air pollution depends upon the "baseline concentration," and the management of the airshed through PSD into the future, the baseline emissions rate must be based on the same date range as the monitoring data. By allowing sources to choose either a netting basis that potentially reaches back into the mid-1970s, and certainly beyond the baseline concentration year established for PM2.5, OR highest actual emissions for the last 10 years, the policy options presented by DEQ's first question will prevent Oregon from attaining and maintaining the health-based standards set by EPA to protect Oregonians.

NEDC is aware that the federal PSD program allows sources to choose a baseline emissions rate based on any 24-month period in the 10 years prior to a modification. Prior to rule changes in 2003, however, the federal program required a source to consider the two years immediately prior to a modification as the baseline period. This older policy allows an airshed to "capture back" some of its clean air when facilities age and economies shift. Moreover, this older policy was consistent with the requirements of the Clean Air Act PSD program, to prevent the degradation of ACTUAL air quality.

Consider for a moment a resident of North Portland who purchases a home located near an established pollution facility. That facility closed down one of its production lines in 2008 as a result of the recent economic downturn. The one remaining line does not use the inputs that

produce PM2.5 laden emissions. Thus, the new homeowner experiences no ill effects from the facility's pollution. Now consider that, under Oregon's proposal, in five or ten years that facility can open its old line back up, and introduce a significant amount of PM2.5 into the neighborhood and beyond. Because the facility had a "baseline emissions rate" equal to its emissions at some year in the distant past, whether 1978, 1998, or 2008, under Oregon's PSD program (being replicated here for PM2.5), no public notice would be required, no modeling studies of actual air quality would be conducted, and the facility would not have to obtain a permit or perform any of the other obligations imposed by the PSD program, but pollution would significantly increase. While this may make sense for the facility owner, who wants to avoid imposition of new compliance obligations and permitting, it makes no sense for the resident who faces significantly dirtier air than she started with. The Clean Air Act imposes a mandate to reduce pollution, not continue it at levels consistent with some earlier, and more and more distant, year *ad infinitum*. DEQ's policy of setting a static baseline year, often not correlated with the baseline concentration year, steals the benefits of the Clean Air Act from this citizen, and her neighbors.

Therefore, DEQ should adopt a baseline emission rate definition that captures the existing actual air quality of an area and travels, with the rest of us, across time. A 24-month period has been demonstrated as a workable unit of administration and should be adopted. In no event should sources be allowed to reach back to higher pollution output before the baseline concentration year.

- **Should a source's Potential to Emit (PTE) be used to establish baseline emission rate or NSR/PSD approved Plant Site Emission Limit (PSEL)?**

The use of PTE during the baseline period, or at initial construction, to set netting basis and PSEL overstates emissions, making it less likely that a source would later trigger NSR/PSD even when making a modification that would significantly increase actual pollution. A policy like the one described above, which bases determinations of significant emissions increases on actual emissions preceding the physical change, would avoid this problem. The calculation of an emissions increase would be based on actual conditions contemporaneous with the change. This would prevent a source from depending on an artificially inflated PTE calculation established years ago to make later improvements in a facility that result in increased emissions without satisfying the PSD program.

As DEQ is aware, the Clean Air Act PSD program intended to grandfather existing sources and slowly phase in technology designed to reduce emissions over time as capital improvements were made to aging facilities. By pairing an evaluation of available control technology, and potential capital expenditures on control technology, with a major capital project, Congress intended to avoid a bottleneck of facilities needing to install major equipment, and reasonably phase in controls. Unfortunately, DEQ has interpreted Oregon's PSD program to do the opposite, that is, to maintain an old, dirty facility's ability to remain dirty forever into the future, so long as its potential emissions, as reflected in PSELs, never increase. In this way, as older facility's deteriorate over time, their owners can maintain and improve them, increasing their operating time, for example, without ever satisfying the requirements of the PSD program. Effective implementation of the PSD program, with its dual goals of maintaining clean air and

allowing for economic expansion, requires that emissions calculations be revisited on a regular basis (e.g. before a modification causing a significant increase in actual emissions).

- **Significant rule changes identified by DEQ:**

1, 3. What are "actual emissions" for sources that were permitted but not yet operating during the baseline period or were not permitted through NSR/PSD?

DEQ continues to use the PTE of a source "permitted but not yet operating during the baseline period" as a stand in for "actual emissions" when calculating emissions increases following a physical or operational change. DEQ appears to try to address the "over-netting" problem occasioned by using PTE as actual emissions by "resetting" actual emissions to the highest level of actual emissions in the 10 years during and after construction. Under DEQ's proposal, if a source makes a physical or operational change, it must ask for its "actual emissions" to be reset before it makes the change. This is essentially an up to 10-year look back period for actual emissions for a source "permitted but not yet operating." This policy seems to insure that any facility making a physical or operational change would have at least 10 years of history to look back to in determining whether the change would significantly increase emissions.

Putting aside whether it makes any sense at all for the baseline period for greenhouse gases to be ten years from 2000 – 2010, what is particularly confusing is how a source could legally qualify for the definition of "major modification" in OAR 340-200-0020(69)(c)(A) (proposed) that requires that the source have "obtained all permits to construct and operate after the applicable baseline period but have not undergone New Source Review?" The baseline period for greenhouse gases is one 12-month period during 2000-2010. OAR 340-200-0020(14) (proposed). DEQ should clarify that OAR 340-200-0020(69)(c) applies only to sources that were permitted to construct and operate after December 31, 2009, but before January 2, 2011 that did not operate for at least 12 months before January 2, 2011. If it applies to sources other than those few sources, it authorizes the illegal construction and operation of sources in Oregon. In fact, to be consistent with the Clean Air Act, DEQ should adopt the definition of "commenced construction" – i.e. OAR 340-200-0020(69)(c) applies to sources that commenced construction after December 31, 2009, but before January 2, 2011 that did not operate for at least 12 months before January 2, 2011. Basically, sources that were granted PSD permits in 2010, including Portland General Electric. While it is, in our view, a tragedy that another major energy facility in Oregon owned by PGE will once again avoid compliance with the Clean Air Act by getting "grandfathered" – that is, sneaking by an applicability date, no other legal reading of the rule language can stand. In our view, a facility that *actually* operated (and thus satisfied the definition of "commenced construction" for a 12-month period during the baseline period (2000-2010), must use its actual emissions under OAR 340-200-0020(3)(a)(A). Use of the term "normal operations," is too vague to be of regulatory use, and certainly fails to give proper notice to the public or the regulated community as to *when* it will be deemed to have "begun normal operations." That is why DEQ should use the concept of "commenced construction."

The date upon which a facility has "commenced construction" should be used to establish the applicability of the PSD program. If a facility "commenced construction" on or after January 2, 2010, it must go through PSD. Since it has no "actual emissions," its "actual emissions" equal zero. If it "commenced construction" prior to January 2, 2010, its "actual emissions" equal its actual emissions during any 12 calendar month period from 2000 – 2010, and if they did not operate, that number is zero. When they later make a physical change or change in the method of operation, that will likely trigger PSD. This makes sense, because the PSD program is aimed at ensuring that the NAAQS and increment are not actually violated.

The more regulatory sound way to mitigate this impact is the method pursued by the US EPA and most other states…to use a look back period that travels into the future, instead of making the baseline period some static date in the past. Again, NEDC's proposal that DEQ compare the most recent 24-months of operating data with the potential emissions or projected actual emissions after the change in determining whether a change is a major modification would allow facilities to escape retroactive application of PSD after operating for only 24-months. Even if DEQ took a 24 or 12-month period from the most recent 5 – 10 years, however, the result would be more effective in ensuring that modifications at existing sources would not cause a violation of the NAAQS or increment. For example, under DEQ's formulation, a source that has a 2000 – 2010 baseline (either a reset PTE or actual emissions) that decides to make a physical or operational change in 2030 could be exempt from permitting and control requirements if they remained under that 2000 – 2010 baseline, even if they had not actually emitted that much for many years, and even if a large number of smaller sources (and cars, residential emissions, etc.) increased the burden of the pollutant in the air shed. A program like the one Oregon has now, and the proposal for GHGs, fails to protect the NAAQS.

2, 5. What is the baseline emission rate for PM2.5?

It is very difficult to make sense of DEQ's choices here. Again, instead of following the proven and well-developed program under federal law, DEQ is choosing a static baseline for PM2.5 as a fraction of PM10, unless the facility performs a modification in the future. If the facility performs a modification, there can be an up to 5 ton per year "true-up" to avoid applying PSD to changes that increased PM2.5 in the past. All the same problems arise with this static baseline, but an added layer of complexity arises from the 5 ton per year "true-up."

4. Can a source use PTE as "netting basis" to net out of PSD?

DEQ clarifies that a source that has a PSEL set based on PTE cannot use the resulting netting basis to net out of PSD for changes that increase emissions elsewhere at the plant. This is a necessary part of DEQ's proposal to give sources that were "permitted but not yet operating during the baseline period" an "actual emissions" amount equal to its PTE. As discussed above, that proposal is underprotective and difficult to implement. To the extent that DEQ moves forward that program, however, this exclusion is absolutely essential to preventing sources from illegally expanding emissions from existing sources.

6. Should the PM2.5 baseline be set at the weighted average of the percentage of PM2.5 to PM10?

To the extent that DEQ chooses to use any calculations to define PTE or actual emissions of any pollutant, DEQ should ensure that as better calculations, and actual monitoring equipment, becomes available, that it will be used instead of our current understanding of the calculation. DEQ should include language that would require the use of the best available information to estimate actual emissions rather than a static formula. NEDC assumes that the rule as currently written would incorporate changes to calculating a "weighted average of the appropriate percentage of PM2.5 to PM10," but do not believe that the rule would allow, encourage or require the use of continuous emissions monitors when they become available. DEQ should ensure that its rule would allow using the most appropriate formula (as prescribed by U.S. EPA), or continuous emissions monitors to establish actual emissions and PTE.

In closing, NEDC again urges DEQ to consider developing a program based on the federal program, but with changes necessary to ensure proper implementation, instead of perpetuating the problems of the current Oregon PSD program into the future. As NEDC stated in its prior comments: the PSELs are unenforceable as a practical matter,[1] DEQ's implementation of the PSELs fails to ensure compliance with the NAAQS and PSD increment, and the PSEL program has incentivized industry to keep dirty sources operating instead of replacing them with newer, cleaner sources.

Thank you for the opportunity to comment and your consideration of these comments. Please inform NEDC, via undersigned counsel, of any new developments in this rulemaking.

Sincerely yours,

/s/ Aubrey Baldwin
Aubrey Baldwin, Counsel for NEDC

Cc: Mark Riskedahl
John Krallman
Andy Ginsburg

[1] PSELs, annual caps on mass emissions, are enforceable ONLY when accompanied by requirements for continuous emissions monitoring systems (CEMS), or comprehensive parametric monitoring. DEQ does not follow a stringent program of monitoring and reporting for air polluters in Oregon, typically relying on periodic stack testing (once per year, or once per FIVE YEAR permit term), and compliance equations to demonstrate compliance with PSELs. Though Oregon's rules require that permits include sufficient measures to demonstrate continuous compliance, DEQ has utterly failed to implement this provision with regard to many sources in Oregon – particularly those with multiple emissions points.

NORTHWEST PULP&PAPER

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Transmitted via e-mail: AQFeb2011Rules@deq.state.or.us

January 14, 2011

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

RE: New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates – Second Comment Period

Dear Ms. Inahara:

Thank you for your work on this important issue and the opportunity to provide public comment on the New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates administrative rule making on behalf of the Northwest Pulp and Paper Association (NWPPA). We consider this to be a precedent setting rule revision that will shape Oregon's air permitting program for the next decade.

NWPPA is a 54-year old regional trade association representing pulp and paper manufacturing sites in the Pacific Northwest on environmental and energy public policy issues. NWPPA routinely comments on public policy matters before government advisory committees, administrative rule makings at state agencies, permitting matters and legislation under consideration in state legislatures. Our members hold environmental permits issued by the DEQ.

For this issue on behalf of NWPPA I have: participated in the summer 2010 stakeholder workshops; provided advisory comment on the emergency rule making on a portion of these rules; and provided written comment on the November 2010 rulemaking. I appreciate DEQ's outreach efforts.

NWPPA Supports All AOI Rule Comments

NWPPA supports the comment letter of Associated Oregon Industries on the re-proposed January 2011 $PM_{2.5}$ and greenhouse gas regulations and our association positions are aligned. NWPPA and AOI share members who hold Title V air operating permits and who will be regulated by the proposed rules.

NWPPA appreciates the Department's extensive work on these important air regulations and thanks the Department for the opportunity to provide comment. I can be contacted at 503-844-9540 to answer any questions.

Sincerely,

Kathryn VanNatta
Northwest Pulp and Paper Association

Portland General Electric Company
121 SW Salmon Street • Portland, Oregon 97204

January 14, 2011
ES-027-2011
Gov Rel 9
General

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 $PM_{2.5}$ and Greenhouse Gas Regulations

Dear Ms. Inahara:

Portland General Electric Company ("PGE") appreciates the opportunity to comment on the re-noticed rules that propose changes to the New Source Review/Prevention of Significant Deterioration rules to add $PM_{2.5}$ and GHG to the regulations. Below are our comments to specific elements of the proposal.

GHG Baseline

In the initial proposed greenhouse gas rules proposed by DEQ, sources would choose between two options for calculating GHG baseline emissions. One option would be to use actual emissions during the baseline period while the second option allowed sources to calculate GHG emissions based on production rates used to calculate the netting basis of other combustion related pollutants. Under DEQ's re-noticed proposed rules, the only option available for calculating GHG baseline emissions is to use actual emissions during a 12-month period between 2000 and 2010.

As a regulated utility, PGE is required to maintain power generating reserves of a specific quantity. Currently, those reserves are met by including the total generating capacity that our plants are permitted to produce. As proposed, this rule has the potential to require PGE to

significantly reduce the amount of power that we are permitted to generate for any plant that did not operate to its full capacity during a 12-month period between 2000 and 2010.

PGE requests the DEQ include the option to either calculate GHG baseline emission rates based on production rates used to calculate the netting basis of other combustion related pollutants or in the absence of combustion related pollutant netting basis, using actual GHG emissions during a 12-month period between 2000 and 2010. Additionally, sources that choose to calculate GHG baseline emission rate based on the same production rates used to calculate the netting basis of other combustion related pollutants that have previously gone through PSD for a combustion pollutant, should be allowed to set its GHG netting basis based on the production rates used in that PSD analysis.

PGE also requests DEQ clarify that sources that seek to establish a GHG PSEL that is greater than the significant emission rate over the netting basis but is a result of utilizing capacity that existed in the baseline year that GHG New Source Review does not apply.

Please contact me if you have any questions about these comments.

Respectfully,

Ray Hendricks
Portland General Electric

January 14th, 2011

BY EMAIL (AQFeb2011Rules@deq.state.org) AND FACSIMILE (503-229-5675)

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

Re: Comments on Proposed $PM_{2.5}$ and Greenhouse Gas (GHG) Regulations

Dear Ms. Inhara:

Thank you for the opportunity to comment on DEQ's re-noticed rules adding $PM_{2.5}$ and greenhouse gas (GHG) requirements to DEQ regulations. The Oregon Forest Industries Council (OFIC) is a trade association representing more than 50 Oregon forestland owners and forest products manufacturing-related firms. Its members own more than 90% of Oregon's private large-owner forestland base. Many of our members would be affected by these regulations.

Associated Oregon Industries (AOI) is also submitting comments on these matters. OFIC is an AOI member, and supports AOI's comments in their entirety.

OFIC would particularly like to emphasize AOI's comments on the "Definition of "Greenhouse Gas" (OAR 340-200-0020(59))." Consistent with EPA's recent decision to eliminate consideration of biomass CO_2 emissions from PSD or Title V programs, we request that DEQ recognize in this rule that, unless and until EPA changes its position, CO_2 emissions from biomass should not be considered for any purpose under the Oregon Air Program.

Thank you for the opportunity to comment and for your consideration of OFIC's comments.

Sincerely,

Lincoln Cannon
Director, Forest Resources & Taxation
Oregon Forest Industries Council
PO Box 12826
Salem, OR 97309
(503) 586-1245

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340
Proposed Rulemaking
STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT

New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates

The Oregon Department of Environmental Quality (DEQ) is proposing rules that would update New Source Review/Prevention of Significant Deterioration (NSR/PSD) for fine particles and greenhouse gases and make other permitting rule updates.

This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates
Statutory Authority or other Legal Authority	ORS 468.020, 468A.025
Statutes Implemented	468.065, 468A.040, 468A.055, 468A.310
Need for the Rule(s)	$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration: The proposed NSR/PSD rules for $PM_{2.5}$ are needed to implement this program once the United States Environmental Protection Agency repeals the PM_{10} surrogate policy. At that time, EPA rules will require states to update their PSD programs to include $PM_{2.5}$. The proposed rules would replace a temporary rule that was adopted on August 19, 2010 and expires on February 28, 2011. The proposed rules differ from the temporary rules because EPA adopted different regulatory standards than anticipated; and DEQ has developed new options for program implementation. Greenhouse Gas Prevention of Significant Deterioration and Title V permitting: The proposed rules for GHGs are needed in response to regulations promulgated by EPA that require states to update their PSD and Title V programs to include GHGs. If EQC does not adopt these rules, Oregon will lose federal approval to implement the programs and could face sanctions. Adoption of these rules will ensure that sources comply with federal GHG permitting requirements and help DEQ retain approval to implement the PSD and Title V programs. Small Scale Local Energy Projects: The proposed rule change for small scale local energy projects is needed to align Oregon's administrative rules with Oregon's statute (ORS 468A.040). Permitting Rule Update: The proposed rules are needed because Oregon previously adopted EPA's acid rain program rules by reference, and EPA has since made revisions to the federal acid rain program rules. Oregon's rules are now out of date. The proposed rules would adopt the most current, updated federal acid rain program rules by reference.
Documents Relied Upon for Rulemaking	Federal Register / Vol. 75, No. 28 6827/ Thursday, February 11, 2010/ Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5); Notice of Proposed Rulemaking To Repeal Grandfathering Provision and End the PM10 Surrogate Policy http://www.gpo.gov/fdsys/pkg/FR-2010-02-11/pdf/2010-2983.pdf Federal Register / Docket ID No. EPA-HQ-OAR-2006-0605 / Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM2.5) – Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration/Final Rule (SMC) http://www.epa.gov/nsr/documents/20100929finalrule.pdf Interim Implementation for the New Source Review Requirements for PM2.5 (John S. Seitz,

EPA, October 23, 1997)
http://www.epa.gov/ttn/nsr/gen/pm25.html

Federal Register / Vol. 75, No. 28 / Thursday, June 3, 2010 / Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule
http://www.gpo.gov/fdsys/pkg/FR-2010-06-03/pdf/2010-11974.pdf

Federal Register / Vol. 75, No. 170 / Thursday, September 2, 2010 /Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan http://www.gpo.gov/fdsys/pkg/FR-2010-09-02/pdf/2010-21706.pdf

Federal Register/Vol. 75, No. 170/Thursday, September 2, 2010/ Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call
http://www.gpo.gov/fdsys/pkg/FR-2010-09-02/pdf/2010-21701.pdf

House Bill 2952 (2009): http://www.leg.state.or.us/09reg/measpdf/hb2900.dir/hb2952.en.pdf

Federal acid rain program rules in 40 CFR Parts 72, 75, and 76, available at:
http://www.gpoaccess.gov/cfr/index.html

Requests for Other Options

Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

Fiscal and Economic Impact, Statement of Cost Compliance

Overview

The proposed rules could have a fiscal and economic impact on approximately 1,256 permitted sources in addition to future applicants:

Business Type	Business Size	Permit Type	Number
City/County Govt	Large	ACDP	42
City/County Govt	Large	Title V	2
State Government	Large	ACDP	22
State Government	Large	Title V	2
Federal Government	Large	ACDP	3
Federal Government	Large	Title V	1
Industrial Business	Large	ACDP	570
Industrial Business	Large	Title V	95
Estimated Number of Large Businesses Potentially Impacted			**737**

Business Type	Business Size	Permit Type	Number
Industrial Business	Small	ACDP	502
Industrial Business	Small	Title V	17
Estimated Number of Small Businesses Potentially Impacted			**519**

- 117 facilities in Oregon that are permitted under the Air Quality Division's Title V Permit Program
- 1139 industrial facilities in Oregon that are permitted under the Air Quality Division's Air Contaminant Discharge Permit (ACDP) program

$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration: DEQ anticipates that there will be a negative fiscal and economic impact on about 386 small and large businesses subject to existing permitting requirements. These businesses will be required to make an initial

	estimate of $PM_{2.5}$ emissions at the time of permit renewal or modification so DEQ can incorporate emission levels into permits. DEQ will develop guidance to help minimize the impact. Oregon's other 870 permitted sources are on simpler permits that do not require calculation of emissions. The fiscal and economic impact is primarily due to federal requirements, although a portion of the impact is caused by incorporating the federal requirements into Oregon's unique NSR/PSD program. Additionally, NSR and PSD is a case-by-case analysis, and because the type of pollution controls and computer modeling varies for each case, DEQ lacks available information to accurately estimate those costs. However, DEQ acknowledges that the cost impact of NSR and PSD is typically significant. The application fee alone for this type of permit is $42,000. Greenhouse Gas Prevention of Significant Deterioration and Title V program: DEQ anticipates that there will be a negative fiscal and economic impact on about 386 small and large businesses subject to existing permitting requirements. Businesses will be required to estimate GHG emissions for their permit renewals or modifications, using a process similar to their GHG reporting requirements. DEQ will develop guidance to help minimize the impact. The fiscal and economic impact is primarily due to federal requirements, although a portion of the impact is caused by incorporating the federal requirements into Oregon's unique PSD program. Small Scale Renewable Energy Sources: DEQ anticipates that there will be a positive economic impact for one or more small scale renewable energy sources that may benefit from the ability to obtain offsets from anywhere within a nonattainment area. This benefit results from House Bill 2952 (2009), and is unchanged by this rulemaking. Permitting Rule Updates: DEQ anticipates that there will be no fiscal and economic impact as a result of the proposed rules.
Impacts on the General Public	$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: DEQ does not anticipate any direct, negative fiscal or economic impacts from the proposed rules on the general public. However, indirect fiscal or economic impacts to the public may occur through increased prices for services or products as a result of costs associated with additional control or process equipment that may be required if a source triggers NSR/PSD. DEQ expects any such price increases to be small and lacks available information upon which it could accurately estimate potential increases. $PM_{2.5}$ New Source Review/Prevention of Significant Deterioration: EPA adopted standards for $PM_{2.5}$ based on their link to serious health problems ranging from increased symptoms, hospital admissions and emergency room visits to premature death for people with heart and lung disease. The proposed rules could create positive, direct economic benefits by reducing health care costs because the amount of $PM_{2.5}$ emissions allowed from new or expanding large businesses will be reduced. However, DEQ is unable to estimate those impacts for Oregon because it lacks available information to project the complicated connection between reductions in those pollutants and the costs of health care. Greenhouse Gas Prevention of Significant Deterioration: Global warming may create public health problems that can have negative economic impacts. The proposed rules could create positive, direct economic benefits by reducing health care costs because the amount of greenhouse gas emissions allowed from new or expanding large businesses will be reduced. However, DEQ is unable to estimate those impacts for Oregon because it lacks available information to project the complicated connection between reductions in those pollutants and the costs of health care. Small Scale Renewable Energy Sources: DEQ anticipates that there will be no fiscal and economic impact on the general public as a result of the proposed rules. Permitting Rule Updates: DEQ anticipates that there will be no fiscal and economic impact on the general public as a result of the proposed rules.
Impacts to Small	$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V:

Business (50 or fewer employees – ORS183.310(10))	DEQ anticipates that there will be a negative fiscal and economic impact on 269 small businesses because they will be required to make an initial estimate of $PM_{2.5}$ and GHG emissions at time of permit renewal or modification so DEQ can incorporate emission levels into permits. Additionally, proposed new facilities that would be large sources of $PM_{2.5}$ and GHG pollution would also be subject to the rules, but DEQ lacks available information to project what new facilities may be proposed in the future. These businesses have the option of assuming that $PM_{2.5}$ emissions are the same as PM_{10} emissions (already included in their permits), eliminating any additional costs for reporting, recordkeeping or other administrative activities. GHG emissions can be estimated using a process similar to their GHG reporting requirements. The cost of these requirements varies by each business and DEQ lacks available information sufficient to accurately estimate these costs. DEQ anticipates that there will be a negative fiscal and economic impact on new sources and existing sources if they make a modification to their facility that would trigger New Source Review or Prevention of Significant Deterioration. Additional costs could be incurred if the business had to add control equipment to meet control technology requirements. Sources are also required to perform computer modeling for $PM_{2.5}$ to ensure that the health standards are met and air quality in wilderness areas is not degraded. Most of the costs are the result of federal requirements and do not change as a result of adding $PM_{2.5}$ and GHGs to the list of regulated pollutants in Oregon. Additionally, NSR and PSD is a case-by-case analysis, and because the type of pollution controls and computer modeling varies for each case, DEQ lacks available information to accurately estimate those costs. However, DEQ acknowledges that the cost impact of NSR and PSD is typically significant. The application fee alone for this type of permit is $42,000. <u>Small Scale Renewable Energy Sources:</u> DEQ anticipates that there will be no fiscal and economic impact as a result of the proposed rules. <u>Permitting Rule Updates:</u> DEQ anticipates that there will be no fiscal and economic impact as a result of the proposed rules.	
Cost of Compliance on Small Business (50 or fewer employees – ORS183.310(10))	a) Estimated number of small businesses subject to the proposed rule	Currently 17 small businesses are required to hold Title V operating permits. Of the 1,139 industrial facilities holding Air Contaminant Discharge Permits, 502 of them are small businesses. Additionally, proposed new facilities that would be large sources of $PM_{2.5}$ and GHG pollution would also be subject to the rules, but DEQ lacks available information to project what new facilities may be proposed in the future.
	b) Types of businesses and industries with small businesses subject to the proposed rule	There are several types of businesses and industries with small businesses that will be affected by the proposed rules. These may include asphalt manufacturing; ammonia manufacturing; chemical manufacturing; coffee roasting; commercial bakeries; commercial boilers; crematories; educational institutions; electric power generation; furniture manufacturing; food processing; hospitals; iron and steel; natural gas and oil production and processing; petroleum refining; pipe coaters; printers; sand, rock and gravel operations; seed and grain companies; synthetic resin manufacturing; and wood products manufacturing.
	c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services	Additional costs for reporting, recordkeeping or other administrative activities are expected if the amendments are adopted. These small businesses will be required to make an initial estimate of $PM_{2.5}$ and GHG emissions. Businesses have the option of assuming that $PM_{2.5}$ emissions are the same as PM_{10} emissions (already included in their permits), eliminating any additional costs for reporting, recordkeeping or other administrative activities.
	d) The equipment, supplies, labor, and increased	Additional costs for equipment, supplies, labor or administration are expected if the amendments are adopted and a small

	administration required by small businesses for compliance with the proposed rule	business triggers NSR/PSD through facility modification or new construction. Most of the costs are the result of federal requirements and do not change as a result of adding $PM_{2.5}$ and GHGs to the list of regulated pollutants in Oregon. Such cost could include labor for employees or consultants to estimate emissions and prepare permit applications and labor for consultants to test stack emissions. Additional costs could be incurred if the business had to add control equipment to meet control technology requirements. Sources are also required to perform computer modeling for $PM_{2.5}$ emissions to ensure that the health standards are met and air quality in wilderness areas is not degraded. Additionally, NSR and PSD is a case-by-case analysis, and because the type of pollution controls and computer modeling varies for each case, DEQ lacks available information to accurately estimate those costs. However, DEQ acknowledges that the impact of NSR and PSD is typically significant. The application fee alone for this type of permit is $42,000.
	e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking	Small businesses were invited to attend stakeholder meetings held to discuss proposed rule changes. Stakeholder meetings allowed input on the proposed rules and also comment on the August 19 temporary rules. DEQ sent an announcement of the meetings to all permitted facilities and people who expressed interest in air quality rulemakings. DEQ sent the announcement by postcards, email using Oregon's GovDelivery system, a free e-mail subscription service that provides subscribers with automatic notices of updates to the Oregon DEQ Web page on topics they select, and posted the announcement on the DEQ website. DEQ provided two weeks to comment on a draft version of the fiscal and economic impact statement.
Impacts on Large Business (all businesses that are not "small businesses" under ORS183.310(10))	Currently 95 large businesses are required to hold federal Title V Operating Permits. There are also 570 large businesses that hold state Air Contaminant Discharge Permits. These permittees would be subject to the $PM_{2.5}$ and GHG portions of the proposed rules. Additionally, proposed new facilities that would be large sources of $PM_{2.5}$ and GHG pollution would also be subject to the rules, but DEQ lacks available information to project what new facilities may be proposed in the future. <u>$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V:</u> DEQ anticipates that there will be a negative fiscal and economic impact on these sources because they will be required to make an initial estimate of $PM_{2.5}$ and GHG emissions at time of permit renewal or modification so DEQ can incorporate emission levels into permits. These businesses also have the option of assuming that $PM_{2.5}$ emissions are the same as PM_{10} emissions (already included in their permits), eliminating any additional costs for reporting, recordkeeping or other administrative activities. GHG emissions can be estimated using a process similar to their GHG reporting requirements. The cost of these requirements varies by each business and DEQ lacks available information sufficient to accurately estimate these costs. DEQ anticipates that there will be a negative fiscal and economic impact on new sources and existing sources if they make a modification to their facility that would trigger New Source Review or Prevention of Significant Deterioration. Additional costs could be incurred if the business had to add control equipment to meet control technology requirements. Businesses are also required to perform computer modeling to ensure that the health standards are met and air quality in wilderness areas is not degraded. Most of the costs are the result of federal requirements and do not change as a result of adding $PM_{2.5}$ and GHGs to the list of regulated pollutants. Additionally, NSR and PSD is a case-by-case analysis, and because the type of	

	pollution controls and computer modeling varies for each case, DEQ lacks available information to accurately estimate those costs. However, DEQ acknowledges that the cost impact of NSR/PSD is typically significant. The application fee alone for this type of permit is $42,000. Small Scale Renewable Energy Sources: DEQ anticipates that there will be a positive economic impact for one or more small scale renewable energy sources because offsets are not available for sources that are located in remote parts of the nonattainment area. Getting offsets elsewhere in the nonattainment area also benefits air quality since the offsets will come from near where the highest ambient concentrations are located. Permitting Rule Updates: DEQ anticipates that there will be no fiscal and economic impact as a result of the proposed rules.
Impacts on Local Government	$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: Currently 44 county and local government agencies are subject to air permitting regulations. These permittees would be subject to the $PM_{2.5}$ and GHG portions of the proposed rules. Additionally, proposed new facilities that would be large sources of $PM_{2.5}$ and GHG pollution would also be subject to the rules, but DEQ lacks available information to project what new facilities may be proposed in the future. DEQ anticipates that there will be a negative fiscal and economic impact on these sources because they will be required to make an initial estimate of $PM_{2.5}$ and GHG emissions at time of permit renewal or modification so DEQ can incorporate emission levels into permits. These government agencies also have the option of assuming that $PM_{2.5}$ emissions are the same as PM_{10} emissions (already included in their permits), eliminating any additional costs for reporting, recordkeeping or other administrative activities. GHG emissions can be estimated using a process similar to their GHG reporting requirements. The cost of these requirements varies by each permittee and DEQ lacks available information sufficient to accurately estimate these costs. DEQ anticipates that there will be a negative fiscal and economic impact on local government agencies if they build new sources and or modify existing sources that would trigger New Source Review or Prevention of Significant Deterioration. The costs would be similar to large businesses as mentioned above. Small Scale Renewable Energy Sources: DEQ anticipates that there will be no fiscal and economic impact as a result of the proposed rules. Permitting Rule Updates: DEQ anticipates that there will be no fiscal and economic impact as a result of the proposed rules.
Impacts on State Agencies other than DEQ	$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: Currently there are 24 state and 4 federal government agencies subject to air permitting regulations. These permittees would be subject to the $PM_{2.5}$ and GHG portions of the proposed rules. Additionally, proposed new facilities that would be large sources of $PM_{2.5}$ and GHG pollution would also be subject to the rules, but DEQ lacks available information to project what new facilities may be proposed in the future. DEQ anticipates that there will be a negative fiscal and economic impact on these sources because they will be required to make an initial estimate of $PM_{2.5}$ and GHG emissions at time of permit renewal or modification so DEQ can incorporate emission levels into permits. State and federal government agencies have the same options available to them as mentioned above for local government agencies. The cost of these requirements varies by each permittee and DEQ lacks available information sufficient to accurately estimate these costs. DEQ anticipates that there will be a negative fiscal and economic impact on state agencies other than DEQ if they build new sources and or modify existing sources that would trigger New Source Review or Prevention of Significant Deterioration. The costs would be similar to large businesses as mentioned above.

	State and federal government agencies would incur the same fiscal and economic impacts as local government agencies mentioned above.
Impacts on DEQ	$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: Workload for DEQ will increase as a result of incorporating $PM_{2.5}$ and greenhouse gases into permits. If the $PM_{2.5}$ and GHG thresholds for the New Source Review/Prevention of Significant Deterioration program are not adopted, there would be a significant workload impact on DEQ, because many more sources would become subject to NSR/PSD. This includes an increase in costs associated with issuing NSR/PSD permits. Small Scale Renewable Energy Sources: Workload for DEQ will increase as a result of permitting one or more small scale renewable energy sources that may be affected by the proposed rules. Permitting Rule Updates: Workload for DEQ should not change as a result of the proposed rules.
Assumptions	$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: If the $PM_{2.5}$ and GHG thresholds for the New Source Review/Prevention of Significant Deterioration program are not adopted, an indeterminate number of sources would subject to NSR/PSD for $PM_{2.5}$ or GHG emissions. The reason for this is because without establishing a significant emission rate as proposed by this rule, any increase in emissions of $PM_{2.5}$ or GHGs by a source would trigger NSR/PSD. Several hundred of these permits may need to be issued or modified creating significant workload issues.
Housing Costs	DEQ determined that the proposed rule changes may have a negative impact on the development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel if the costs for additional control or process equipment are passed through by sources providing products and services for such development and construction. The possible impact appears to be minimal. DEQ cannot quantify the impact at this time because the information available to it does not indicate whether the costs would be passed on to consumers and any such estimate would be speculative.
Administrative Rule Advisory Committee	Stakeholder meetings allowed input on the proposed rules and also comment on the August 19 temporary rules. DEQ sent an announcement of the meetings to all permitted facilities and people who expressed interest in air quality rulemakings. DEQ sent the announcement by postcards, email using Oregon's GovDelivery system, a free e-mail subscription service that provides subscribers with automatic notices of updates to the Oregon DEQ Web page on topics they select, and posted the announcement on the DEQ website. DEQ provided two weeks to comment on the fiscal and economic impact statement. DEQ did not use an Advisory Committee but held several meetings with stakeholders to discuss topics of interest to them.

Signed copy on file with the Department	Jill Inahara	10/12/2010
Prepared by	Printed name	Date
	James Roys	10/15/2010
Approved by DEQ Budget Office	Printed name	Date

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Land Use Evaluation Statement

Rulemaking Proposal
For
New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates

The Oregon Department of Environmental Quality (DEQ) is proposing rules that would update New Source Review/Prevention of Significant Deterioration (NSR/PSD) for fine particles and greenhouse gases, update standards for particulate matter, and make other permitting rule updates.

1. Explain the purpose of the proposed rules.

$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration: This proposed rulemaking would adopt NSR/PSD rules for fine particles ($PM_{2.5}$ or particulate matter less than 2.5 microns in diameter) adopted by a temporary rule on August 19, 2010. The unexpired temporary rule will be replaced upon adoption of the final rule. The proposed rule amendments align Oregon's rules with federal requirements to allow DEQ to continue to implement the NSR/PSD program in Oregon.

Greenhouse Gas (GHG) Prevention of Significant Deterioration: DEQ is proposing rules that would update the PSD program to include greenhouse gases in response to regulations promulgated by EPA. Additional proposed changes clarify existing requirements in Oregon's NSR/PSD rules. Adoption of the rules will allow DEQ to continue implementing the federally approved Prevention of Significant Deterioration program in Oregon.

Small Scale Renewable Energy Sources: EPA requires states to have minor source construction approval programs, but gives states flexibility in how to do this. Oregon's minor source construction approval program basically applies major source NSR/PSD requirements to any source with emissions over the significant emission rate (including some areas where the Oregon SER is lower than the federal SER). HB 2952 revised how the minor source construction approval program works for small scale local energy projects.

Permitting Rule Updates: DEQ is proposing to update the version of the federal acid rain program rules that DEQ adopted by reference.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?

Yes X No____

a. If yes, identify existing program/rule/activity:

The proposed rules will affect the existing DEQ stationary source permitting programs that are considered land use programs (OAR Chapter 340, Divisions 216, and 218). The air quality permit programs require that a new source provide a Land Use Compatibility Statement (LUCS) from local government when applying for a permit. This assures that the source is an approved use for the property where it is located. Existing permittees have provided a LUCS, which are on file with DEQ. No change in the land use procedures in the air quality permitting program is proposed.

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?

Yes X No____ (if no, explain):

Existing procedures already adequately cover the proposed rules. New regulated pollutants will be added to those that are required to be permitted but the requirements for the permitting of these activities and the review of their land use impacts remain unchanged.

c. If no, apply the following criteria to the proposed rules.
Not applicable

In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.
Not applicable

3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.
Not applicable

DEPARTMENT OF ENVIRONMENTAL QUALITY

NOTICE OF PROPOSED RULEMAKING, HEARING

A Statement of Need and Fiscal Impact accompanies this form.

Department of Environmental Quality — Agency and Division
OAR Chapter 340 — Administrative Rules Chapter Number

Maggie Vandehey — Rules Coordinator
503-229-6878 — Telephone

811 SW Sixth Ave., Portland, OR 97204
vandehey.maggie@deq.state.or.us

New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates

The Oregon Department of Environmental Quality (DEQ) is proposing rules that would update New Source Review/Prevention of Significant Deterioration (NSR/PSD) for fine particles and greenhouse gases and make other permitting rule updates.

HEARINGS

Hearing Date	Time	Location	Hearings Officer
November 16, 2010	6:00 pm	DEQ – Medford Regional Office 221 Stewart Avenue, Suite 201 Medford, OR 97501	Tom Peterson
November, 17, 2010	6:00 pm	DEQ - Bend Regional Office 475 NE Bellevue, Suite 110 Bend, OR 97701 Conference Room	Mark Fisher
November 18, 2010	6:00 pm	DEQ Headquarters 811 SW 6th Ave Portland, OR 97204 Room EQC-A	George Davis
November 19, 2010	1:30 pm	DEQ Salem Office 750 Front Street, Suite 120 Salem	Gary Andes

Auxiliary aids for persons with disabilities are available at hearings upon advance request.

RULEMAKING ACTION

ADOPT: OAR 340-224-0005

AMEND:
OAR 340-200-0020, OAR 340-200-0025, OAR 340-200-0040, OAR 340-202-0010, OAR 340-202-0060, OAR 340-202-0210, OAR 340-215-0060, OAR 340-216-0020, OAR 340-216-0025, OAR 340-216-0040, OAR 340-216-0052, OAR 340-216-0054, OAR 340-216-0056, OAR 340-216-0060, OAR 340-216-0064, OAR 340-216-0066, OAR 340-216-0070, OAR 340-216-0090, OAR 340-222-0042, OAR 340-222-0045, OAR 340-224-0010, OAR 340-224-0050, OAR 340-224-0060, OAR 340-224-0070, OAR 340-225-0020, OAR 340-225-0030, OAR 340-225-0045, OAR 340-225-0050, OAR 340-225-0060, OAR 340-225-0090, OAR 340-228-0300, OAR 340-246-0230

REPEAL: NA

RENUMBER: NA

AMEND AND RENUMBER: NA

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

Other Authority: NA

Stats. Implemented: 468.065, 468A.040, 468A.055, 468A.310

RULE SUMMARY

$PM_{2.5}$ New Source Review/Prevention of Significant Deterioration: This proposed rulemaking would adopt NSR/PSD rules for fine particles ($PM_{2.5}$ or particulate matter less than 2.5 microns in diameter) adopted by a temporary rule on August 19, 2010. The unexpired temporary rule will be repealed upon adoption of the final rule. The proposed rule amendments align Oregon's rules with federal requirements to allow DEQ to continue to implement the NSR/PSD program in Oregon.

Greenhouse Gas (GHG) Prevention of Significant Deterioration: DEQ is proposing rules that would update the PSD program to include greenhouse gases in response to regulations promulgated by EPA. Additional proposed changes clarify existing requirements in Oregon's NSR/PSD rules. Adoption of the rules will allow DEQ to continue implementing the federally approved Prevention of Significant Deterioration program in Oregon.

Small Scale Renewable Energy Sources: EPA requires states to have minor source construction approval programs, but gives states flexibility in how to do this. Oregon's minor source construction approval program basically applies major source NSR/PSD requirements to any source with emissions over the significant emission rate (including some areas where the Oregon SER is lower than the federal SER). HB 2952 revised how the minor source construction approval program works for small scale local energy projects.

Permitting Rule Updates: DEQ is proposing to update the version of the federal acid rain program rules adopted by reference.

These amendments, if adopted, will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to the State Implementation Plan, which is a requirement of the Clean Air Act

To request additional information regarding this rulemaking or submit comments, please contact Jill Inahara, Oregon Department of Environmental Quality,), 811 SW Sixth Avenue, Portland, OR 97204, toll free in Oregon at 800-452-4011 or (503) 229-5001, or at AQFeb2011Rules@deq.state.or.us or fax at (503) 229-5675, or visit DEQ's website http://www.deq.state.or.us/aq/permit/proposedRules.htm. *(If you do not receive an auto response to your emailed comments, contact staff listed above),*

5:00 p.m. November 24, 2010
Last day to receive public comments

ORS 183.335(2)(b)(G), The Department of Environmental Quality requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

Signed copy on file with the Department
Signature and Date

Maggie Vandehey
Printed name

The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Relationship to Federal Requirements

New Source Review, Particulate Matter and Greenhouse Gas Permitting Requirements and Other Permitting Rule Updates

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The Oregon Department of Environmental Quality (DEQ) is proposing rules that would update New Source Review/Prevention of Significant Deterioration (NSR/PSD) for fine particles and greenhouse gases and make other permitting rule updates.

Answers to the following questions identify how the proposed rulemaking relates to federal requirements and the justification for differing from, or adding to, federal requirements. This statement is required by OAR 340-011-0029(1).

1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?

Yes, the proposed rulemaking is different because it modifies Oregon's existing permitting rules which are different than federal rules. Oregon's permitting program has been structured in a different way than the federal program since it originated in 1982, but is considered equivalent by the Environmental Protection Agency.

Both programs require preconstruction approval (NSR/PSD) for new major air pollution sources or existing sources making modifications that will increase their emissions above a baseline level by a defined amount known as a "Significant Emission Rate." The primary difference between Oregon's existing rules and the federal rules is how the baseline emission level, or netting basis, is established. The netting basis is the emission level in a defined baseline year, adjusted by any required decreases and approved increases of emissions.

Under Oregon's program, the netting basis is based on actual emissions from a set time period, often the year 1977 or 1978, and is adjusted accordingly based on subsequent changes at the facility. If emissions increase above the netting basis by the Significant Emission Rate for a pollutant, the source triggers NSR/PSD.

Under the federal program NSR/PSD is also triggered by an increase over a Significant Emission Rate, however the concept of baseline and netting basis is different. Instead of having a fixed baseline period, the federal program typically requires a review of the highest actual emissions at a source over any two year period in the previous ten years. Following that review, an annual highest emission level is established and that level is used as the baseline for determining if emissions will increase by more than a Significant Emission Rate.

The proposed rule does not create new differences in the major source preconstruction program from the federal program. It makes changes to Oregon's rules to maintain equivalency with the federal program. The proposed rule incorporates two new federally regulated pollutants

(greenhouse gases and fine particulates) into Oregon's existing program which is, and has been different from the federal program since its inception.

Another change is the proposed rule to establish a Significant Impact Level (SIL), used to determine if additional air quality analysis is required during preconstruction approval. EPA's recently adopted SILs for PM2.5 were developed by scaling the existing PM10 SILs using a PM2.5-to-PM10 National Ambient Air Quality Standard ratio.

EPA SILs	Air Quality Area Designation		
Averaging Time	**Class I**	**Class II**	**Class III**
Annual	0.06 μg/m^3	0.3 μg/m^3	0.3 μg/m^3
24-hour	0.07 μg/m^3	1.2 μg/m^3	1.2 μg/m^3

EQC adopted the following SILs for $PM_{2.5}$ in a temporary rule at the August 19, 2010 meeting based on the EPA proposed SILs at that time.

DEQ SILs	Air Quality Area Designation		
Averaging Time	**Class I**	**Class II**	**Class III**
Annual	0.04 μg/m^3	0.2 μg/m^3	0.2 μg/m^3
24-hour	0.08 μg/m^3	1.0 μg/m^3	1.0 μg/m^3

Since EPA did not adopt the option expected, DEQ is proposing adoption of EPA's Class I SILs to replace the SILs adopted in the temporary rule.

DEQ SILs	Air Quality Area Designation		
Averaging Time	**Class I**	**Class II**	**Class III**
Annual	0.06 μg/m^3	0.2 μg/m^3	0.2 μg/m^3
24-hour	0.07 μg/m^3	1.0 μg/m^3	1.0 μg/m^3

DEQ's proposed Class II and Class III SILs are lower than EPA's values because DEQ established lower levels in the early 1990's for PM_{10} due to significant air quality problems in the Medford area. Air quality in this area has improved over time but it is still an area of concern. The lower SILs have been maintained as part of Oregon's State Implementation Plan to ensure that air quality does not deteriorate. Despite the lower PM_{10} SILs, Oregon currently has two areas in the state that do not meet ambient air quality standards for $PM_{2.5}$

EPA's Class II and III SILs for $PM_{2.5}$ are higher than DEQ's existing SILs for $PM_{10.}$ Since $PM_{2.5}$ emissions consist of smaller particles and are considered a subset of PM_{10} emissions, DEQ is proposing that the $PM_{2.5}$ SIL be set at a level equal to DEQ's current PM_{10} SIL.

The proposed rules also change how small scale local energy projects are evaluated under Oregon's rules based on recent changes to Oregon's statutes resulting from House Bill 2952. EPA requires states to have minor source construction approval programs, in addition to the major source program described above, but gives states flexibility in how to do this. Oregon's existing minor source construction approval program in effect applies major source NSR/PSD requirements to any source with emissions over the Significant Emission Rate. This is above and beyond what is required by the federal rules. HB 2952 revised how minor source construction approval works for small scale local energy projects in Oregon providing DEQ with greater

flexibility on how to implement the program. The changes in the proposed rule still meet EPA's general requirement to have a construction approval program for minor sources and do not change the stringency of the rule.

2. If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).

Oregon's proposed rules maintain inherent differences between Oregon's existing permitting program rules and the federal rules for the purpose of administrative consistency with the exception of the SILs which are more stringent for Class II and Class III areas for environmental and administrative reasons. See discussion above in response to Question 1. Adopting the federal program for some pollutants while maintaining the Oregon program for other pollutants could cause confusion and it would be resource intensive to administer two different programs in the state. Also converting the entire program to match the federal program would be a major undertaking, requiring significant resources and technical challenges. In addition to maintaining administrative consistency there are a number of other benefits to the Oregon program as described below.

Oregon's NSR/PSD program was used as one of the models to support the development of the federal NSR reform rules. In particular, Oregon's Plant Site Emission Limit was a model for the federal Plantwide Applicability Limit (PAL). The federal PAL is set by adding the Significant Emission Rate to the highest actual emissions over any two year period in the previous ten years.

The foundation for calculating net emission increases or decreases for determining applicability of the NSR/PSD program in the Oregon rules is the Plant Site Emission Limit established for each source. PSELs manage airshed capacity and provide the basis for:

1) assuring reasonable further progress towards attainment of ambient standards;
2) assuring compliance with ambient standards and PSD increments (the maximum concentration increase that is allowed to occur above a baseline concentration for a specific pollutant);
3) administering the emissions trading program; and
4) tracking PSD increment consumption (the cumulative impact of emissions growth in areas that meet air quality standards).

It is also important to note that any increase in actual emissions above the PSEL requires the source to apply for, and DEQ to approve, a revision to the PSEL in the state air quality construction permit. The PSEL rules are consistent with the requirements of the Clean Air Act as they allow increases in actual emissions only if such increases would not exceed applicable emission limitations, or cause ambient air quality standards, PSD increments or reasonable further progress to be violated. The Oregon rules, therefore, have a more clearly established baseline than in the EPA rules.

Because the PSEL is typically based on actual emissions in the 1978 baseline year, the Oregon approach is equivalent to how EPA determines whether there is a net emissions increase. Furthermore, DEQ accumulates **all** emissions increases and decreases from physical changes or changes in operation since the baseline year or last major source permit, whichever is more recent, rather than just during a "contemporaneous" time period. This aspect of DEQ's program is similar to the federal PAL. Both provide a net environmental benefit and flexibility because they create an incentive for sources to voluntarily reduce emissions in order to avoid triggering NSR/PSD. The PSEL and PAL both have provisions to be reduced if emission reductions at the sources occur and make the caps excessively high. The PSEL and PAL also eliminate the possibility of a gradual increase of emissions over time by piecemeal projects not triggering NSR/PSD. Under the federal rules where a PAL is not chosen, an increase or decrease in actual emissions is contemporaneous. The increases from previous changes at the facility are only looked at if they occurred with 10 years of the date of a proposed new change.

In Oregon all emissions units that contribute to the emissions increase above the SER are required to install retrofit Best Available Control Technology. BACT, an emission limitation based on the maximum degree of emission reduction by the most stringent technology available for controlling emissions, is required unless it can be demonstrated that it is not feasible for energy, environmental, or economic reasons. Under the federal program, the BACT requirement applies to each individual new or modified affected emissions unit and pollutant emitting activity at which a net emissions increase would occur. Individual BACT determinations are performed for each pollutant subject to a PSD review emitted from the same emission unit. Consequently, the BACT determination must separately address, for each regulated pollutant with a significant emissions increase at the source, air pollution controls for each emissions unit or pollutant emitting activity subject to review.

The DEQ program, although substantially different from EPA's regulations, provides a workable program which is equivalent to EPA's and will accomplish the Clean Air Act goal of preventing significant deterioration of air quality.

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HB 2952 (2009) requires these changes to the rules in order to match Oregon's revised statutes.

3. If the proposal differs from, or is in addition to, applicable federal requirements, did DEQ consider alternatives to the difference or addition? If so, describe the alternatives and the reason(s) they were not pursued.

Greenhouse Gas Prevention of Significant Deterioration
DEQ considered not taking delegation of the NSR/PSD program for GHGs. The result of this alternative would be confusion in terms of administering, issuing, enforcing and complying with these requirements since NSR/PSD permits would be issued by both DEQ and EPA. Depending on the pollutant, the NSR/PSD programs are implemented differently. It would require additional coordination and staffing to ensure DEQ and EPA approved permits within a similar timeframe, otherwise construction could be delayed. This alternative was not pursued because it would make the NSR/PSD program very disconnected and would make administration of the program impractical.

There are two steps in EPA's Tailoring Rule that phase-in applicability for PSD and Title V permits for the largest emitters of GHGs. For the first step, beginning on January 2, 2011, PSD or Title V requirements will apply to sources' GHG emissions only if the sources are subject to PSD or Title V anyway due to their non-GHG pollutants. Therefore, EPA will not require sources or modifications to evaluate whether they are subject to PSD or Title V requirements solely on account of their GHG emissions. The second step of the Tailoring Rule, beginning on July 1, 2011, will phase in additional large sources of GHG emissions. New sources as well as existing sources not already subject to title V that emit, or have the potential to emit, at least 100,000 tons per year CO2e (carbon dioxide equivalent) will become subject to the PSD and title V requirements. In addition, sources that emit or have the potential to emit at least 100,000 tpy CO2e and that undertake a modification that increases net emissions of GHGs by at least 75,000 tpy CO2e will also be subject to PSD requirements.

DEQ considered implementing the second step of the phase-in which would begin January 2, 2011 rather than July 1, 2011; however permitting resources would not be available to meet the earlier deadline and the GHG PSD rules will not be adopted until February, 2011.

DEQ is also considering and requests comments on three other options as described in the rulemaking's Alternative Rule Options document. In particular, DEQ is contemplating and would like comment on adopting EPA's method for establishing when PSD is triggered for greenhouse gas emissions.

<u>$PM_{2.5}$ Significant Impact Levels</u>
DEQ considered adopting EPA's proposed options for SILs for Class II and III areas. However, EPA's Class II and III SILs for $PM_{2.5}$ are higher than DEQ's existing SILs for $PM_{10.}$ This idea was rejected because it did not make sense to have a $PM_{2.5}$ SIL that is higher than the state's PM_{10} SIL since $PM_{2.5}$ emissions consist of smaller particles and are considered a subset of PM_{10} emissions. Also adopting higher SILs for $PM_{2.5}$ would not be consistent with the need to bring Oakridge and Klamath Falls back into attainment, or meeting the ambient air quality standards for PM2.5.

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DEQ did not considered alternatives because the proposal is consistent with changes directed by the legislature.