Attachment E
, 2011, EQC meeting
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Commenter No. 1

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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

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Ms. Jill Inahara
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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

Boise Cascade, L.L.C.
Legal Department
1111 West Jefferson Street Ste 300
PO Box 50 Boise, ID 83728
T 208 384 6679 F 208 395 7637
RussellStrader@BC.com

Russell Strader
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
FAX: 541-734-5537

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

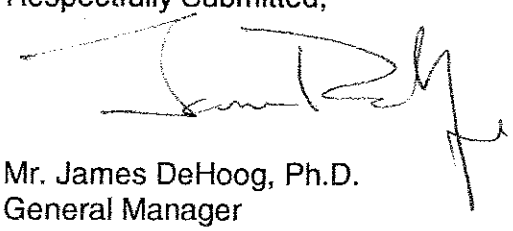
The subject of Greenhouse Gases (GHG) for forest products company owners that also own timberland and forests is becoming a touchy one. Currently forest products company owners and ownership that own manufacturing or conversion facilities (mill's) that also own timberland and forestland that sequesters 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

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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

Mari Chesser
Environmental, Health and Safety Manager
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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,

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[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
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Commenter No. 17

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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

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Lean and HR Manager

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Commenter No. 18

INAHARA001

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

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

1149 Court Street NE
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www.aoi.org

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
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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.

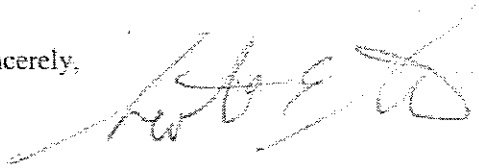
(a) For a major modification, the requirement for BACT applies only to:

(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.

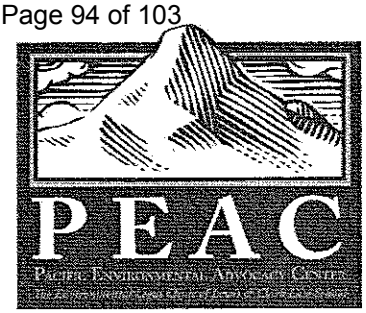
Sincerely,



Scott Stewart

cc: Todd Rallison
Tom Wood

Commenter No. 12



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January 14, 2011

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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,

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